

**ASSEMBLY BILL**

**No. 2417**

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**Introduced by Assembly Member Sharon Runner**

February 21, 2008

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An act to amend Section 240 of, and to add Section 1390 to, the Evidence Code, to add Sections 13921, 13921.5, 13974.6, 30061.1, 30061.15, 30062.1, and 30062.2 to the Government Code, to amend Sections 11377, 11378, and 11379 of the Health and Safety Code, to amend Sections 32, 136.1, 186.22, 186.22a, 186.26, 186.30, 594, 653.75, 666.5, 1319, 1319.5, 1464, 4504, 12022.53, and 14027 of, to add Sections 186.22b, 186.34, 653.77, 667.21, 2933.25, 3044.5, 4004.6, 4505, 5072, 11166.6, 12022.52, 12022.57, and 14260 to, and to repeal Sections 14175 and 14183 of, the Penal Code, to amend Section 10851 of the Vehicle Code, and to amend Sections 749.22 and 1951 of, and to add Section 707.005 to the Welfare and Institutions Code, relating to crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2417, as introduced, Sharon Runner. Crime.

Existing law defines various crimes and provides for the regulation of persons who violate those provisions.

This bill, the Safe Neighborhoods Act: Protect Victims, Stop Gang and Street Crime, would state findings and declarations of the Legislature relating to crime in California.

Existing law defines “unavailable as a witness” for purposes of provisions of law relating to evidence.

This bill would expand that definition to include a situation in which a declarant is present at a hearing and refuses to testify concerning the

subject matter of the declarant's statement despite a court order to do so.

Existing law, the hearsay rule, provides that evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated is inadmissible, except as provided by law.

This bill would provide that evidence of a statement is not made inadmissible by the hearsay rule if the statement is offered against a party who has engaged or acquiesced in intentional criminal wrongdoing that has caused the unavailability of the declarant as a witness, as specified.

Existing law provides for various programs intended to provide funding and programmatic support for programs to deter crime.

This bill would establish the California Early Intervention Rehabilitation and Accountability Commission for the purpose of evaluating publicly funded programs designed to deter crime through intervention, or reduce recidivism through rehabilitation, and to disclose those findings to the public, as specified.

This bill would establish the Crimestopper Reward Reimbursement Fund, which shall be used to provide reimbursement for rewards offered and paid for information in felony cases, as specified. This bill would appropriate \$10,000,000 from the General Fund to the Crimestopper Reward Reimbursement Fund for the 2009–10 fiscal year, and require the Controller to augment that fund annually, as specified, for the purposes of these provisions.

This bill would create the Victim Trauma Recovery Fund for the purpose of supporting victim recovery, resources, and treatment, as specified.

This bill would create the Citizen Option for Public Safety Fund for supporting local public safety, antigang, and juvenile justice programs, as specified. This bill would appropriate \$500,000,000 from the General Fund annually, adjusted for inflation as specified, to the Citizen Option for Public Safety Fund for these purposes.

This bill would create the Safe Neighborhood Fund and the Comprehensive Safe Neighborhood Plan to assist local law enforcement and communities with a combination of programs that augment local law enforcement and early intervention capacity, create regional and statewide antigang networks, and enforce the law, as specified.

This bill would create the Safe Neighborhoods Compliance Enforcement Fund to augment local government efforts to ensure that

occupants of residential housing units paid for by federal vouchers, as specified, comply with the regulations issued pursuant to federal law and with the conditions of their publicly funded tenancies. This bill would appropriate \$10,000,000 annually, adjusted for inflation as specified, from the General Fund to the Safe Neighborhoods Compliance Enforcement Fund for these purposes.

This bill would create the Juvenile Probation Facility and Supervision Fund for juvenile facility repair and renovation, juvenile deferred entry of judgment programs, and intensified juvenile or young adult probation supervision. This bill would appropriate \$50,000,000 from the General Fund annually, adjusted for inflation as specified, for these purposes.

Existing law provides that any person who possesses specified controlled substances, including methamphetamine, shall be punished by imprisonment in a county jail for a period not exceeding one year or in the state prison for 16 months, or 2 or 3 years.

This bill would instead provide that any person who possess methamphetamine, as specified, shall be punished by imprisonment in the state prison for 16 months, or 2 or 3 years.

Existing law provides that any person who possess methamphetamine for sale shall be punished by imprisonment in the state prison for 16 months, or 2 or 3 years.

This bill would instead provide that possession of methamphetamine for sale is punishable by imprisonment in the state prison for 2, 3, or 4 years.

Existing law provides that any person who transports, imports, sells, furnishes, administers, or gives away methamphetamine is punishable by imprisonment in the state prison for 2, 3, or 4 years.

This bill would instead provide that any person who transports, imports, sells, furnishes, administers, or gives away methamphetamine, as specified, shall be punished by imprisonment in the state prison for 3, 4, or 5 years.

Existing law provides that any person who harbors, conceals, or aids a principal in a felony, after the felony has been committed, with specified intent, is an accessory to the crime and is punishable by a fine not exceeding \$5,000, by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, 2 or 3 years, or by both fine and imprisonment.

This bill would provide that any person who makes a materially false statement to a peace officer or prosecutor regarding facts relevant to investigation of a felony for the benefit of, at the direction of, or in

association with a criminal street gang or investigation of a violent felony, as specified, is an accessory to the crime.

Existing law provides that any person who, knowingly and maliciously, commits specified acts against a victim or witness or who attempts to influence a victim or witness, as specified, by force, in furtherance of a conspiracy, or for pecuniary gain, or who knowingly and maliciously commits specified acts against a victim or witness or who attempts to influence a victim or witness, as specified, and has previously been convicted of a violation of these provisions, is punishable by imprisonment in the state prison for 2, 3, or 4 years.

This bill would provide that any person who, by means of force or by express or implied threat of force, (1) attempts to dissuade a judge, prosecutor, public defender, or peace officer from participating in the arrest, prosecution, or trial of any criminal suspect, or (2) attempts to dissuade any person from filing, authorizing, or implementing a gang injunction or nuisance abatement process, or (3) attempts to dissuade any person acting under color of law from inspecting premises where gang, drug, or organized criminal activity occurs, as specified, or (4) attempts to retaliate against any person who lawfully participated in any criminal or civil process, as specified, is also punishable by imprisonment in the state prison for 2, 3, or 4 years.

Existing law provides that a person who commits a felony for the benefit of, or at the direction of, or in association with any criminal street gang, with specified intent, shall be punished by an additional term of imprisonment, as specified.

This bill would expand these provisions to include persons who attempt a felony for the benefit of, or at the direction of, or in association with any criminal street gang, with specified intent and provide that, under certain circumstances, the additional term of imprisonment may be for life. This bill would also provide that any willful or knowing violation of any injunction issued against a criminal street gang or its individual members shall constitute contempt of court, punishable by a fine not exceeding \$1,000, imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, with repeat offenders subject to mandatory jail and felony sanctions, as specified. This bill would also provide that any person who is found guilty as an accessory to a felony, if it is pled and proved that it was committed for the benefit of, at the direction of, or in association with any criminal street gang, shall be punished by at least  $\frac{1}{2}$  the punishment prescribed for a principal committing the felony.

Existing law provides that certain buildings and places where gang conduct takes place are nuisances. Existing law provides that an action for injunction or abatement filed against a criminal street gang nuisance, as specified, may proceed according to existing provisions for abating nuisances related to controlled substances, provided that limitations on the imposition of a civil penalty, notice of eviction, the scope of the injunction, and provision of notice to the owner of the property, are satisfied, as specified.

This bill would remove those limitations on using the controlled substance nuisance abatement process for gang buildings and places.

Existing law defines a criminal street gang as any ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more specified criminal acts, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

This bill would provide that a criminal street gang may be sued in the name it has assumed or by which it is known, as specified, and would specify means for service of process on a criminal street gang.

Existing law provides that any person who solicits or recruits another to actively participate in a criminal street gang, with specified intent, shall be punished by imprisonment in the state prison for 16 months, or 2 or 3 years.

This bill would change that intent.

Existing law provides that if the person solicited, recruited, coerced, or threatened a minor to actively participate in a criminal street gang, he or she shall be punished by an additional term of 3 years.

This bill would provide, if the minor was under 14 years of age, for an additional term of 5 years instead of the 3-year term specified above. It would further provide that a person who solicits, recruits, coerces, or threatens a person to participate in a gang is a principal to any subsequent felony committed by the subject of his or her actions, as specified.

Existing law provides that any person who is convicted of a gang related crime shall register with law enforcement, as specified, and that failure to register is a misdemeanor.

This bill would specify that the person must register annually and that if he or she has more than one residential address at which he or she regularly resides, he or she must register in each of the jurisdictions

in which he or she regularly resides or, if 2 or more of the addresses are within the same jurisdiction, provide the registering authority with all of the addresses located within that jurisdiction. This bill would also provide that any person who is required to register pursuant to these provisions based upon a misdemeanor conviction who violates these provisions is guilty of a misdemeanor and that any person who is required to register pursuant to these provisions based upon a felony conviction or who is convicted of a second or subsequent failure to register, who violates these provisions is guilty of a felony. This bill would also provide that the registration requirement shall terminate 5 years after the day the registrant is sentenced, as specified. Because this bill would require local officials to provide a higher level of service, this bill would impose a state-mandated local program.

This bill would require the Department of Justice to aggregate information about persons who have been convicted of actively participating in a criminal street gang and willfully promoting, furthering, or assisting in felonious conduct by members of that gang on a monthly basis and make the information available electronically to California criminal justice agencies on a secured Gang Registration, as specified.

Existing law provides that any person who maliciously commits specified acts to any real or personal property that is not his or her own is guilty of vandalism punishable based upon the amount of defacement, damage, or destruction.

This bill would provide that more than one act of vandalism committed in any consecutive 12-month period may be aggregated for purposes of determining the amount of defacement, damage, or destruction if the vandalism was the result of a common scheme, purpose, or plan.

Existing law provides that any person who commits any public offense while in custody in any local detention facility or state prison is guilty of a crime and shall be punished as is provided in the provisions of law prescribing punishment for that public offense.

This bill would provide that the person may also be punishable by twice the punishment as is provided in the provisions of law prescribing punishment for that public offense if the crime is a felony committed for or with a criminal street gang, as specified.

The bill would also provide that any person who provides an inmate a weapon, cell phone, or other item of contraband that is used in a felony

shall be deemed a principal, subject to the same penalty as the inmate, in commission of the felony.

Existing law provides various programs of in home detention and monitoring, and regulates conduct on parole, including wearing global positioning system (GPS) devices, as specified.

This bill would provide that unauthorized removal, as specified, of a GPS device affixed for purposes of a criminal sentence, juvenile court disposition, parole, or probation is an offense.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law provides that any person who has previously been convicted of various felony offenses including grand theft involving a motor vehicle and violating provisions prohibiting knowingly buying or receiving a stolen motor vehicle, who is subsequently convicted of any of those offenses shall be punished by a \$10,000 fine, imprisonment in the state prison for 2, 3, or 4 years, or by both that fine and imprisonment.

This bill would provide that these provisions shall apply if the person is subsequently convicted of one of these offenses, whether the person was previously convicted of a misdemeanor or a felony, and that probation shall be granted only in the unusual case in which the interests of justice would be served and those reasons are specified in the record and entered into the minutes.

Existing law provides that specified criminal offenders are ineligible for release on bail.

This bill would provide that no person charged with a violent or gang related felony, as specified, shall be eligible for bail or be released on his or her own recognizance if at the time of the alleged offenses he or she was within the United States illegally. It would also require local law enforcement officials to record the status of illegal aliens charged, booked, or convicted of a felony, thereby imposing a state-mandated local program.

Existing law provides that no person who is arrested for commission of a violent felony may be released on his or her own recognizance unless a hearing is held, as specified.

This bill would expand these provisions to persons who are arrested for the commission of a serious felony, as specified.

Existing law provides that certain persons, including one who has failed to appear in court, as ordered, resulting in a warrant being issued, 3 or more times over the previous 3 years who is arrested for any of

specified offenses, is not eligible to be released on his or her own recognizance until a hearing is held, as specified.

This bill would instead provide that a person who has failed to appear in court, as ordered, resulting in a warrant being issued, two or more times over the previous 3 years who is arrested for any of those specified offenses, is not eligible to be released on his or her own recognizance unless a hearing is held, as specified.

Existing law creates the State Penalty Fund into which state penalties on criminal fines, penalties, and forfeitures are deposited.

This bill would revise the percentages by which moneys in this fund are transferred to various other funds and provide that 1.81% and 1.89% shall be transferred once a month to the Victim Trauma Recovery Fund and the Child Advocacy Center Fund, respectively. This bill would also state findings and declarations related to the allocation of funds in the Driver Training Penalty Assessment Fund.

Existing law specifies limitations on accrual of credit that may be earned against a period of confinement for specified criminal offenders.

This bill would provide that any person who is convicted of a felony offense that is punishable by imprisonment in the state prison for life shall be ineligible to receive any conduct credit reduction of his or her sentence, as specified.

Existing law generally regulates parole. This bill would provide that the Division of Adult Parole Operations staff shall report to the Board of Parole Hearings any parolee who is reasonably believed to have engaged in specified conduct, including assaultive conduct, possession, control, or use of firearms or weapons, or sale, transportation, or distribution of controlled substances, whose whereabouts are unknown, or who has committed serious violations of his or her conditions of parole, as specified.

Existing law generally regulates county jail facilities.

This bill would provide that the sheriff in a county that is subject to federal court order imposing inmate population caps or is subject to self-imposed inmate population caps, is releasing inmates early to avoid overcrowding, or has exceeded 90% of jail capacity, as specified, shall be authorized to employ and operate housing facilities as temporary jails, as specified.

Existing law generally regulates parolees.

This bill would create the Parolee Reentry Fund for the purpose of funding contracts for parolee mentoring and workforce preparation programs to be awarded by the Secretary of the Department of



Corrections and Rehabilitation. The bill would appropriate \$20,000,000 from the General Fund annually, adjusted for inflation as specified, to the fund for these purposes.

Existing law requires each person in specified positions with child custodian responsibilities to make a report to law enforcement whenever, in his or her professional capacity or within the scope of his or her employment, he or she knows of or observes a child whom he or she knows or reasonably suspects has been the victim of child abuse or neglect.

This bill would provide that each county may establish child advocacy centers to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse, with support from the Child Advocacy Center Fund, as specified.

Existing law provides that any person who has been convicted of a felony under the laws of the United States, the State of California, or any other state or government, or who is otherwise specified, who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

This bill would provide that any person who is prohibited from possessing a firearm because of a previous felony conviction who is convicted of carrying a concealed firearm or carrying a loaded firearm in any public place or on any public street shall be punished by an additional 10-year term of imprisonment if specified circumstances are pled and proved.

Existing law provides that any person who, in the commission of specified criminal offenses, personally uses, discharges, or by discharge causes great bodily injury with a firearm, shall be punished by an additional 10-year, 20-year, or 25-year to life term of imprisonment, respectively, if specified circumstances are pled and proved.

This bill would add burglary of the first degree to the list of offenses, the commission of which, with a firearm, shall be punished by these additional terms of imprisonment and would remove provisions limiting the application of these terms. This bill would also provide that in any case in which a person who has been convicted of a felony, or another of specified persons, owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm, or commits a felony involving the use of a firearm, and the offense occurs, in whole or in part, within a motor vehicle, or the person and the firearm are found within a motor vehicle, additional punishments, including

revocation of the privilege of operating a motor vehicle and impoundment of the vehicle, as specified, shall apply.

Existing law provides that the Attorney General shall issue guidelines and adopt regulations to implement the provisions of the Hertzberg-Leslie Witness Protection Act that include requiring local agencies to provide a 25% match of the costs of providing witness protection services.

This bill would remove provisions requiring that the guidelines and regulations require a 25% match by local agencies and instead provide that the guidelines and regulations include an appropriate match that shall be made by local agencies.

Existing law, operative until July 1, 2009, and July 1, 2010, established programs for the prevention of rural crime and apprehension of criminals in the Central Valley and the central coast.

This bill would remove provisions terminating the operation of these provisions.

Existing law requires various law enforcement agencies to make information regarding criminal offenders available to the public, as specified.

This bill would create the Office of Public Safety Education and Information to deter crime, support crime victims, encourage public cooperation with law enforcement, and administer grant programs to pursue these programs, as specified.

Existing law provides that any person who drives or takes a vehicle that is not his or her own, without the consent of the owner, shall be punished by a fine not exceeding \$5,000, imprisonment in a county jail for not more than one year, or in the state prison for 16 months, or 2 or 3 years, or by both fine and imprisonment.

This bill would provide that a person is subject to an additional one-year term of imprisonment who violates these provisions as a principal or an accessory in any of the following circumstances: (1) the taking is in exchange for consideration or for the purpose of sale or transport of the vehicle or its components, (2) the vehicle is used in the commission of a felony, (3) the vehicle is the subject of a pursuit, or (4) the vehicle is involved in a collision before its recovery.

Existing law provides that any person who drives or takes away an ambulance or a law enforcement or fire department vehicle while the vehicle is on an emergency call and this fact is known to the person, shall be punished by a fine not exceeding \$10,000, imprisonment in the state prison for 2, 3, or 4 years, or by both fine and imprisonment.

This bill would remove provisions requiring that the ambulance or vehicle be on an emergency call at the time of the unauthorized taking or stealing.

Existing law provides that with regard to a minor alleged to be a ward of the court by reason of the violation, when he or she was 14 years of age or older, of any specified offenses, upon motion of the petitioner made prior to the attachment of jeopardy, the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness to be dealt with under the juvenile court law. The minor is presumed unfit under specified circumstances.

This bill would provide that the minor shall be presumed not to be a fit and proper subject to be dealt with under the juvenile court law if the minor is alleged to have violated certain criminal gang-related provisions unless the juvenile court concludes that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court, as specified.

Existing law establishes the Juvenile Crime Enforcement and Accountability Challenge Grant Program to award grants on a competitive basis to counties that develop and implement a comprehensive, multiagency local action plan that provides for a continuum of responses to juvenile crime and delinquency, and that demonstrate a collaborative and integrated approach for implementing a system of swift, certain, graduated responses, and appropriate sanctions for at-risk youth and juvenile offenders. Existing law provides that in order to be eligible for grants, each county establish a coordinating council, as specified.

This bill would remove provisions requiring the coordinating council to include specified persons and authorizing counties to use existing community punishment plans, as specified. This bill would provide that no person employed by or representing the interests of any private entity which has or may receive a grant may serve on a coordinating council.

Existing law establishes the Youthful Offender Block Grant Fund to be used to enhance the capacity of various county departments to provide rehabilitative and supervision services to youthful offenders, as specified.

This bill would appropriate \$92,500,000 or a greater sum, as specified, annually, adjusted for inflation, from the General Fund to the Youthful Offender Block Grant Fund and provide that the grant fund shall be used only to enhance the capacity of county probation departments to

provide or secure rehabilitative and supervision services to youthful offenders, as specified.

This bill would also make various other nonsubstantive and conforming changes.

This bill would provide that if any of its provisions are found to be invalid, the remaining provisions shall remain in effect.

This bill would make various other findings and declarations regarding the implementation of its provisions.

Because this bill would change the punishment for various criminal offenses, and require local officials to perform additional duties, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited as, the  
2 “Safe Neighborhoods Act: Protect Victims, Stop Gang and Street  
3 Crime.”

4 SEC. 2. The Legislature hereby finds and declares all of the  
5 following:

6 (a) The state government has no higher purpose or more  
7 challenging mandate than the protection of our families and our  
8 neighborhoods from crime.

9 (b) Almost every citizen has been, or knows someone who has  
10 been, victimized by crime.

11 (c) Although crime rates have fallen substantially since the early  
12 1990s, there have been some disturbing increases in the last few  
13 years in several categories of crime. According to the Federal  
14 Bureau of Investigation, there were 477 more homicides in  
15 California in 2006 than there were in 1999, a period during which

1 homicides and homicide rates declined in many other states. In  
2 addition, the California Department of Justice has reported that  
3 there were 74,000 more vehicle thefts in 2006 than in 1999 and  
4 that the number of robberies in our state jumped by over 7,500  
5 between 2005 and 2006. More needs to be done to reduce crime  
6 and keep our communities safe.

7 (d) Gangs are a large part of the reason why California has not  
8 fared as well as many other states in recent years in terms of  
9 decreasing crime rates. Street gangs are largely responsible for  
10 increases in California homicides in recent years. Many gangs  
11 involve juveniles.

12 (e) Previously convicted felons and gang members commit the  
13 vast majority of gun crimes, including the killing of peace officers.  
14 Gangs have compromised our criminal justice system, routinely  
15 threatening and assaulting victims, witnesses, and even judges. It  
16 is essential that state laws and resources target these types of  
17 offenders.

18 (f) The proliferation of methamphetamine has created a  
19 multitude of crime problems, driving recent increases in vehicle  
20 and identity theft. Now the illegal drug of choice,  
21 methamphetamine, is often sold by street gangs and, unlike other  
22 drugs, is produced here in California. The effects of the drug are  
23 devastating on users and communities where its use is widespread.

24 (g) Our state adds several hundred thousand people to its  
25 population each year and must commit resources necessary to  
26 support increasing demands on criminal justice personnel and  
27 infrastructure. California's law enforcement personnel, programs,  
28 technology, and infrastructure have not kept pace. In fact, the  
29 resources available to California law enforcement agencies are  
30 generally not as great as those found in communities in other states.  
31 According to the United States Department of Justice, in 2004, 35  
32 states had more sworn officers per 100,000 residents than  
33 California.

34 (h) Unfortunately, these problems have not been addressed in  
35 a comprehensive way. Programs to prevent crime and rehabilitate  
36 offenders are inadequate and unaccountable to the public. Penalties  
37 for certain crimes are not severe enough to deter their commission.  
38 Enforcement efforts and deterrence programs that do work are  
39 often so erratically funded that they cannot be sustained. Victims  
40 of crime are not afforded adequate information, protection, and

1 support in the criminal justice system. In 2007, legislation to  
2 enhance criminal penalties did not pass in the Senate.

3 (i) The conditions summarized in subdivisions (b) to (h),  
4 inclusive, are unacceptable.

5 (j) In order to make our neighborhoods safe and reduce the  
6 number of crime victims, this comprehensive reform of our  
7 criminal justice law is intended to do all of the following:

8 (1) Improve programs to prevent crimes.

9 (2) Enhance public involvement and public accountability.

10 (3) Increase punishment to incapacitate criminals and deter  
11 crime.

12 (4) Protect victims of crimes from abuse and ensure that they  
13 are treated with dignity at all stages of the criminal justice process.

14 (5) Provide supplemental and sustainable funding for law  
15 enforcement, crime prevention, and victim programs.

16 SEC. 3. Section 240 of the Evidence Code is amended to read:

17 240. (a) Except as otherwise provided in subdivision (b),  
18 “unavailable as a witness” means that the declarant is any of the  
19 following:

20 (1) Exempted or precluded on the ground of privilege from  
21 testifying concerning the matter to which his or her statement is  
22 relevant.

23 (2) Disqualified from testifying to the matter.

24 (3) Dead or unable to attend or to testify at the hearing because  
25 of then existing physical or mental illness or infirmity.

26 (4) Absent from the hearing and the court is unable to compel  
27 his or her attendance by its process.

28 (5) Absent from the hearing and the proponent of his or her  
29 statement has exercised reasonable diligence but has been unable  
30 to procure his or her attendance by the court’s process.

31 (6) *Present at the hearing and refuses to testify concerning the*  
32 *subject matter of his or her statement despite an order from the*  
33 *court to do so.*

34 (b) A declarant is not unavailable as a witness if the exemption,  
35 preclusion, disqualification, death, inability, or absence of the  
36 declarant was brought about by the procurement or wrongdoing  
37 of the proponent of his or her statement for the purpose of  
38 preventing the declarant from attending or testifying.

39 (c) Expert testimony—~~which~~ *that* establishes that physical or  
40 mental trauma resulting from an alleged crime has caused harm

1 to a witness of sufficient severity that the witness is physically  
2 unable to testify or is unable to testify without suffering substantial  
3 trauma may constitute a sufficient showing of unavailability  
4 pursuant to paragraph (3) of subdivision (a). As used in this section,  
5 the term “expert” means a physician and surgeon, including a  
6 psychiatrist, or any person described by subdivision (b), (c), or (e)  
7 of Section 1010.

8 The introduction of evidence to establish the unavailability of a  
9 witness under this subdivision shall not be deemed procurement  
10 of unavailability, in absence of proof to the contrary.

11 SEC. 4. Section 1390 is added to the Evidence Code, to read:

12 1390. (a) Evidence of a statement is not made inadmissible  
13 by the hearsay rule if the statement is offered against a party who  
14 has engaged or acquiesced in intentional criminal wrongdoing that  
15 has caused the unavailability of the declarant as a witness.

16 (b) (1) The party seeking to introduce a statement pursuant to  
17 subdivision (a) shall establish, by a preponderance of the evidence,  
18 that the elements of subdivision (a) have been met at a foundational  
19 hearing.

20 (2) Hearsay evidence, including the hearsay evidence that is the  
21 subject of the foundational hearing, is admissible at the  
22 foundational hearing. However, a finding that the elements of  
23 subdivision (a) have been met shall not be based solely on the  
24 uncontroverted hearsay statement of the unavailable declarant, and  
25 shall be supported by independent corroborative evidence.

26 (3) The foundational hearing shall be conducted outside the  
27 presence of the jury. However, if the hearing is conducted after a  
28 jury trial has begun, the judge presiding at the hearing may consider  
29 evidence already presented to the jury in deciding whether the  
30 elements of subdivision (a) have been met.

31 (c) If a statement to be admitted pursuant to this section includes  
32 a hearsay statement made by anyone other than the declarant who  
33 is unavailable pursuant to subdivision (a), that other hearsay  
34 statement is inadmissible unless it meets the requirements of an  
35 exception to the hearsay rule.

36 SEC. 5. Section 13921 is added to the Government Code, to  
37 read:

38 13921. (a) There is hereby established the California Early  
39 Intervention, Rehabilitation, and Accountability Commission for  
40 the purpose of evaluating publicly funded programs designed to

1 deter crime through early intervention, or reduce recidivism  
2 through rehabilitation, and to disclose those findings to the public.  
3 The commission shall adhere to the principle that limited public  
4 resources are best directed to programs that help limit incarceration  
5 through deterrence and focused rehabilitation rather than early  
6 release without meaningful accountability.

7 (b) The commission's long-term goal is to help identify and  
8 productively intervene with at-risk populations prior to  
9 incarceration and for those subject to incarceration, to identify  
10 programs and offenders with the greatest rehabilitative potential,  
11 so the most successful programs can be replicated.

12 (c) The commission is authorized to propose standards of  
13 accountability for publicly funded program providers and  
14 participants, make recommendations to continue, supplement, or  
15 decrease funding and highlight favorable or unfavorable elements  
16 of the programs reviewed.

17 (d) The commission shall report annually to the Joint Legislative  
18 Audit Committee and the Governor regarding the expenditures  
19 and efficacy of publicly funded programs.

20 (e) All publicly funded early intervention programs shall have  
21 a clearly defined at-risk target population and identify participants  
22 so that participants' subsequent criminal involvement, if any, can  
23 be compared to similarly situated control groups.

24 (f) All publicly funded rehabilitation programs involving  
25 criminal offenders, including juveniles, shall be designed to help  
26 create a plan for the offender's successful integration or  
27 reintegration into the community. Accordingly, all such programs  
28 shall have clearly defined goals and require the offender to develop  
29 skills to find employment, locate housing, overcome addiction, or  
30 develop a plan with the potential for successful reintegration.

31 (g) All recipient programs, including those directed toward early  
32 intervention and education, shall file an annual statement with the  
33 commission detailing staffing, curriculum, and program  
34 participation. Copies of annual statements to other granting  
35 authorities will be sufficient unless the commission requires  
36 additional information.

37 (h) The commission shall be comprised of nine members,  
38 consisting of three appointees of the Governor, including the chair;  
39 two members of the Senate, one appointed by the Senate  
40 Committee on Rules and one by the Minority Leader; two members



1 of the Assembly, one appointed by the Speaker and one by the  
2 Minority Leader; a retired judge appointed by the Chief Justice of  
3 the State Supreme Court; and the Attorney General or his or her  
4 designee. The members of the commission shall not receive  
5 compensation, but shall be reimbursed only for reasonable  
6 commission-related expenses.

7 (i) The Governor shall appoint an executive officer, who shall  
8 hire necessary staff to conduct research and administer to the  
9 commission, including staff to conduct periodic or random audits  
10 of all publicly funded programs, subject to budgetary limitations  
11 of the commission.

12 (j) Every early intervention or rehabilitation program funded,  
13 in whole or in part, with public funds, shall make its physical  
14 facilities and financial records available to the commission as a  
15 condition of public funding.

16 (k) The commission may evaluate an early intervention,  
17 education, or rehabilitation program, juvenile or adult, public or  
18 private, for the purpose of comparative study.

19 SEC. 6. Section 13921.5 is added to the Government Code, to  
20 read:

21 13921.5. (a) There is hereby established the Crimestopper  
22 Reward Reimbursement Fund, to be administered by the board.

23 (b) Allocations from the Crimestopper Reward Reimbursement  
24 Fund shall be used to provide reimbursement for rewards offered  
25 and paid for information in felony cases.

26 (c) Reimbursement in amounts not to exceed five thousand  
27 dollars (\$5,000) per claim may be paid to eligible claimants but  
28 may not exceed the actual reward paid.

29 (d) Reward reimbursement claims shall be paid upon proof that  
30 the underlying reward was offered and paid for evidence that led  
31 to the arrest or conviction verified by the arresting or prosecuting  
32 agency.

33 (e) Qualified claimants for reimbursement include the victim  
34 of the underlying felony, or his or her family, or a charitable or  
35 nonprofit organization.

36 (f) The board may set reward limits below the maximum, may  
37 set discrete limits for different crime classifications, may increase  
38 the class of eligible claimants, and shall post its claim procedures  
39 and forms on its Web site.

1 (g) The Controller shall transfer ten million dollars  
2 (\$10,000,000) from the General Fund to the Crimestopper Reward  
3 Reimbursement Fund for the 2009–10 fiscal year.

4 (h) The Crimestopper Reward Reimbursement Fund shall be  
5 augmented annually by the Controller so that the fund has ten  
6 million dollars (\$10,000,000) available, adjusted for cost of living  
7 annually according to the California Consumer Price Index.

8 (i) Nothing in this section shall be deemed to preclude or  
9 otherwise interfere with the Governor's power to offer rewards  
10 pursuant to Section 1547 of the Penal Code.

11 SEC. 7. Section 13974.6 is added to the Government Code, to  
12 read:

13 13974.6. (a) The Victim Trauma Recovery Fund is hereby  
14 created for the purpose of supporting victim recovery, resource,  
15 and treatment programs to provide comprehensive recovery service  
16 to victims of crime.

17 (b) The board shall select up to five sites to award grants  
18 pursuant to this section. The sites shall include, but need not be  
19 limited to, all of the following programmatic components:

20 (1) Establishment of a victim recovery, resource, and treatment  
21 center.

22 (2) Implementation of a crime scene mobile outreach team to  
23 provide comprehensive intervention and debriefing for children  
24 and families.

25 (3) Community-based outreach.

26 (4) Services to family members and loved ones of homicide  
27 victims.

28 (c) Victim recovery, resource, and treatment programs selected  
29 by the board shall serve populations of crime victims whose needs  
30 are not currently being met, shall be distributed geographically to  
31 serve the state's population, and shall include services to reach all  
32 of the following:

33 (1) Individuals who are not aware of the breadth and range of  
34 services provided to victims of crime.

35 (2) Individuals residing in communities with limited services.

36 (3) Individuals who cannot access services due to disability.

37 (4) Family members and loved ones of homicide victims.

38 (d) The board shall award grants beginning on July 1, 2009.

39 (e) The board may retain up to 5 percent of those funds for the  
40 purpose of administering those grants.

1 SEC. 8. Section 30061.1 is added to the Government Code, to  
2 read:

3 30061.1. (a) There is hereby created in the State Treasury, the  
4 Citizens Option for Public Safety Fund (COPS), which may be  
5 allocated only for the purposes specified in this section.

6 (b) The sum of five hundred million dollars (\$500,000,000) is  
7 hereby appropriated from the General Fund to the COPS Fund for  
8 the 2009–10 fiscal year, and annually each fiscal year thereafter,  
9 adjusted for cost of living pursuant to the California Consumer  
10 Price Index for the purpose of supporting local public safety,  
11 antigang, and juvenile justice programs.

12 (c) Of the amount appropriated to the COPS Fund, one-half  
13 shall be transferred by the Controller to local jurisdictions through  
14 each county's Supplemental Law Enforcement Services Fund  
15 (SLESF) for support of programs authorized by Section 30061 as  
16 of July 1, 2007, for the 2009–10 fiscal year, and annually each  
17 fiscal year thereafter.

18 (d) Of the amount appropriated to the COPS Fund, one-half  
19 shall be transferred by the Controller to the Safe Neighborhoods  
20 Fund for the 2009–10 fiscal year, and annually each fiscal year  
21 thereafter for the public safety, antigang, and other programs newly  
22 authorized pursuant to Section 30061.15. These funds shall be  
23 distributed in accordance with the provisions of this act.

24 SEC. 9. Section 30061.15 is added to the Government Code,  
25 to read:

26 30061.15. (a) There is hereby created in the State Treasury  
27 the Safe Neighborhood Fund. Moneys in the fund may only be  
28 distributed for the purposes specified in this section according to  
29 the pro rata share of population as established annually by the  
30 Department of Finance, unless otherwise stated.

31 (b) The Comprehensive Safe Neighborhood Plan is hereby  
32 established to assist local law enforcement and communities  
33 throughout the state with a combination of programs that augment  
34 local enforcement and early intervention capacity and create  
35 regional and statewide antigang networks in order to deter crime,  
36 as well as enforce the law, as follows:

37 (1) Twelve percent of the Safe Neighborhood Fund shall be  
38 allocated annually by the Controller to city uniformed law  
39 enforcement agencies to be used to target violent gang, firearm,  
40 and other street crimes. The funds shall be distributed pro rata

1 based upon the population of each city as determined by the  
2 Department of Finance. The funds allocated to each city shall be  
3 used to enhance uniformed law enforcement within the recipient  
4 city.

5 (2) Ten percent of the Safe Neighborhood Fund shall be  
6 allocated annually by the Controller to district attorneys to be  
7 deposited in each county's SLESF to support violent felony, gang,  
8 and car theft vertical prosecutions. Recipients shall be encouraged  
9 to expend a portion of the funding received pursuant to this  
10 subdivision, not to exceed 2 percent of a recipient's allocation, for  
11 training prosecutors in the effective use of the Street Terrorism  
12 Enforcement and Prevention (STEP) Act in gang prosecutions.

13 (3) Six percent of the Safe Neighborhood Fund shall be allocated  
14 annually by the Controller to the Office of Public Safety Education  
15 and Information to support multiagency, regional gang task forces  
16 and for statewide gang enforcement training programs for  
17 uniformed police and sheriffs.

18 (4) Eight percent of the Safe Neighborhood Fund shall be  
19 allocated annually to county sheriffs, and midsize cities with  
20 populations smaller than 300,000 that are not currently eligible  
21 for the minimum grant of one hundred thousand dollars (\$100,000)  
22 under Section 30061, to address enforcement problems common  
23 to small, midsize, and fast-growing communities so that they can  
24 more actively participate in the county, regional, and statewide  
25 enforcement activities and programs. These funds shall be  
26 distributed as follows:

27 (A) Two and thirty-two hundredths percent of the Safe  
28 Neighborhood Fund in equal amounts to county sheriffs.

29 (B) Five and sixty-eight hundredths percent of the Safe  
30 Neighborhood Fund to cities in pro rata shares based upon each  
31 city's population as determined by the Department of Finance.

32 (5) One percent of the Safe Neighborhood Fund shall be  
33 allocated annually by the Controller to the Office of Public Safety  
34 Education and Information for the purpose of being distributed to  
35 cities that actively enforce civil gang injunctions.

36 (6) Twenty-six percent of the Safe Neighborhood Fund shall  
37 be allocated annually by the Controller to each participating county  
38 probation department according to its pro rata share of the  
39 population as follows:

1 (A) Twenty percent of the Safe Neighborhood Fund shall fund  
2 county probation programs to alleviate existing probation case  
3 loads and to provide intensified supervision for adult offenders on  
4 probation.

5 (B) Six percent of the Safe Neighborhood Fund shall fund task  
6 forces to conduct searches of high-risk probationers to ensure  
7 compliance with their conditions of probation. Each participating  
8 county shall establish a Developing Increased Safety through Arms  
9 Recovery Management (DISARM) Team comprised of the county  
10 sheriff, at least one police chief from a city within the county, the  
11 district attorney, and the chief probation officer, and shall establish  
12 strategies, standards, and procedures to assist probation officers  
13 in removing firearms from high-risk probationers by ensuring  
14 compliance with their conditions of probation. For purposes of  
15 this subdivision, high-risk probationers shall include, but are not  
16 limited to, persons with at least one conviction for any of the  
17 following crimes:

18 (i) Assault with a deadly weapon, as defined in Section 245 of  
19 the Penal Code.

20 (ii) Attempted murder, as defined in Section 664 of the Penal  
21 Code.

22 (iii) Homicide, as provided in Chapter 1 (commencing with  
23 Section 187) of Title 8 of Part 1 of the Penal Code.

24 (iv) Robbery, as provided in Sections 211, 212, 213, and 214  
25 of the Penal Code.

26 (v) Criminal street gang crimes as described in Section 186.22  
27 of the Penal Code.

28 (7) One percent of the Safe Neighborhood Fund shall be  
29 allocated annually by the Controller to support the California Early  
30 Intervention, Rehabilitation, and Accountability Commission  
31 authorized pursuant to Section 13921.

32 (8) Ten percent of the Safe Neighborhood Fund shall be  
33 allocated annually by the Controller to county sheriffs to support  
34 the construction and operation of jails to be deposited into each  
35 county's SLESF.

36 (9) Four percent of the Safe Neighborhood Fund shall be  
37 allocated annually by the Controller to the Department of Justice  
38 to support the California Witness Protection Program, created  
39 pursuant to Section 14020 of the Penal Code, or any successor  
40 program.

(10) Two percent of the Safe Neighborhood Fund shall be allocated annually by the Controller to the Office of Public Safety Education and Information, which shall contract with the Department of Justice or another California law enforcement agency to develop and implement a secure statewide gang data warehouse system that shall interface with the current state Cal-Gang Database to provide a gang information sharing database system available to local, state, and federal law enforcement agencies to better target and prosecute gang crime. After the first year, the Office of Public Safety Education and Information shall allocate two million dollars (\$2,000,000) each year to support and maintain this system and three million dollars (\$3,000,000) each year to regional gang information resource centers to help offset the costs of personnel who will staff these centers.

(11) (A) Six percent of the Safe Neighborhood Fund shall be allocated annually by the Controller to counties for the purchase of global positioning system (GPS) tracking equipment to be used for monitoring high-risk individuals, including gang offenders, violent offenders, and sex offenders.

(i) Participating counties must submit to the Controller, no later than May 1 prior to the fiscal year in which funding is sought, a resolution adopted by the county board of supervisors requesting the amount sought to be used by the county sheriff or probation department to purchase and monitor GPS tracking equipment.

(ii) Funds shall be distributed to each participating county based on the sum requested by that county or that county's pro rata share of the total population of all participating counties, whichever is less.

(iii) If the total funds distributed are less than the annual allocation, the remainder shall be distributed to participating counties that sought a greater amount on the same basis as the initial distribution until the allocation is exhausted or all county requests have been honored.

(B) The cost of monitoring any offender who is subject to GPS tracking under conditions imposed by the state parole authority shall for the duration of the GPS monitoring period be a state expense. Any requirement that a county or local government monitor such an offender shall constitute a fully reimbursable mandate.

1 (12) Four percent of the Safe Neighborhood Fund shall be  
2 annually allocated by the Controller to multiagency narcotics task  
3 forces with an emphasis on those task forces focusing on border  
4 interdiction. Eligible police and sheriff task forces may be formed  
5 pursuant to this subdivision or may preexist, provided that only  
6 multijurisdictional task forces that do not restrict agency  
7 participation or leadership roles shall receive funding.

8 (13) Six percent of the Safe Neighborhood Fund shall be  
9 allocated annually by the Controller to the Office of Public Safety  
10 Education and Information for the purpose of disseminating  
11 criminal justice information to the public and administering public  
12 safety programs pursuant to Section 14260 of the Penal Code.

13 (14) Four percent of the Safe Neighborhood Fund shall be  
14 allocated annually by the Controller to the Office of Public Safety  
15 Education and Information for the purpose of matching local  
16 expenditures to fund juvenile recreational and community service  
17 programs operated by law enforcement agencies. Any sheriff's  
18 department, police department, or regional association of such  
19 agencies may apply for grant funding to administer a juvenile  
20 recreation program with an emphasis on sport, education, and  
21 community service. Eligible programs must be administered by  
22 peace officers and require an equal match of local funding or  
23 in-kind services. The local match requirement can be met by the  
24 value of locally dedicated facilities or officer services or through  
25 charitable contributions. Priority shall be given to programs that  
26 provide services for at-risk juvenile populations, create alternatives  
27 to criminal street gang involvement, and ensure a long-term local  
28 commitment. Grants may be made for periods of up to 10 years.

29 SEC. 10. Section 30062.1 is added to the Government Code,  
30 to read:

31 30062.1. (a) There is hereby established the Safe  
32 Neighborhoods Compliance Enforcement Fund in the State  
33 Treasury to augment local government efforts to ensure that  
34 occupants of residential housing units paid for by vouchers issued  
35 pursuant to Section 8 of the United States Housing Act of 1937  
36 (Section 1437f of Title 42 of the United States Code) comply with  
37 the regulations issued pursuant thereto and with the conditions of  
38 their publicly funded tenancies.

39 (b) The fund shall be administered by the Office of Public Safety  
40 Education and Information (OPSE), which shall match qualified

1 increases in local agency expenditures to enhance regulatory  
2 capacity. The objective of this funding is to eliminate public  
3 funding of rental housing that is occupied by individuals who are  
4 involved in illegal gang, drug, or other criminal activity so that  
5 limited public resources can be used to assist law-abiding families  
6 in need of safe housing.

7 (c) There is hereby appropriated from the General Fund to the  
8 Safe Neighborhoods Compliance Enforcement Fund the sum of  
9 ten million dollars (\$10,000,000) for the 2009–10 fiscal year and  
10 annually thereafter, adjusted for cost-of-living changes pursuant  
11 to the California Consumer Price Index.

12 (d) Every governmental agency authorized to enforce  
13 compliance with occupancy requirements of vouchers pursuant to  
14 Section 8 of the United States Housing Act of 1937 may apply for  
15 a matching grant from the Safe Neighborhoods Compliance  
16 Enforcement Fund as follows:

17 (1) No later than March 30, 2009, and each year thereafter, each  
18 applicant agency shall submit to the Office of Public Safety  
19 Education and Information a request for funding documenting the  
20 following in order to be eligible:

21 (A) The source of the agency's regulating authority.

22 (B) The amount and source of the local agency's new funding  
23 or additional in-kind services that shall match in equal dollar  
24 amount the grant sought from the Safe Neighborhoods Compliance  
25 Enforcement Fund.

26 (C) The additional personnel, equipment, or compliance  
27 enforcement procedures to be financed by the grant funds.

28 (D) The number of vouchers pursuant to Section 8 of the United  
29 States Housing Act of 1937 issued within the agency's jurisdiction.

30 (E) The agency's process for ensuring that all occupants of  
31 Section 8 tenancies within the agency's jurisdiction are subject to  
32 a criminal background check at least once each year.

33 (2) No funds shall be awarded unless the criteria in paragraph  
34 (1) are met.

35 (e) (1) The Office of Public Safety Education and Information  
36 shall, on or before June 30, 2009, and each year thereafter,  
37 following the deadline for grant applications tabulate the total  
38 number of vouchers pursuant to Section 8 of the United States  
39 Housing Act of 1937 issued by all of the applicant agencies and  
40 shall assign to each agency a percentage representing its



1 proportionate share of the total number of vouchers pursuant to  
2 Section 8 of the United States Housing Act of 1937 issued by all  
3 applicant agencies.

4 (2) Each agency that timely complies with eligibility conditions  
5 and the application process shall be issued a 50 percent matching  
6 grant up to that percentage of the annual fund appropriation that  
7 equals the agency's proportionate jurisdictional share of all  
8 vouchers pursuant to Section 8 of the United States Housing Act  
9 of 1937 as calculated pursuant to subdivision (d).

10 (3) In the event that available funding is not exhausted pursuant  
11 to paragraph (1) of subdivision (d), the remaining funds shall be  
12 made available so that each agency that sought a grant created in  
13 proportion to its percentage of total vouchers calculated pursuant  
14 to paragraph (1) shall participate in a second or subsequent pool.

15 (f) The Office of Public Safety Education and Information may  
16 use up to 3 percent of the total funding for necessary administration  
17 of the fund and oversight of recipient programs.

18 SEC. 11. Section 30062.2 is added to the Government Code,  
19 to read:

20 30062.2. (a) There is hereby established the Juvenile Probation  
21 Facility and Supervision Fund.

22 (b) The sum of fifty million dollars (\$50,000,000) is hereby  
23 appropriated from the General Fund to the Juvenile Probation  
24 Facility and Supervision Fund for the 2009–10 fiscal year and  
25 annually each year thereafter adjusted for cost-of-living changes  
26 pursuant to the California Consumer Price Index to be allocated  
27 by the Controller to counties and deposited in each county's SLESF  
28 in the same ratios authorized under paragraph (1) of subdivision  
29 (b) of Section 30061 of the Government Code. These funds shall  
30 be expanded for juvenile facility repair and renovation, juvenile  
31 deferred entry of judgment programs, and intensified probation  
32 supervision for juveniles and adults under 25 years of age.

33 SEC. 12. Section 11377 of the Health and Safety Code is  
34 amended to read:

35 11377. (a) Except as authorized by law and as otherwise  
36 provided in subdivision (b) or Section 11375, or in Article 7  
37 (commencing with Section 4211) of Chapter 9 of Division 2 of  
38 the Business and Professions Code, every person who possesses  
39 any controlled substance which is (1) classified in Schedule III,  
40 IV, or V, and which is not a narcotic drug, (2) specified in

1 subdivision (d) of Section 11054, except paragraphs (13), (14),  
2 (15), and (20) of subdivision (d), (3) specified in paragraph (11)  
3 of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
4 or (3) of subdivision (f) of Section 11054, or (5) specified in  
5 subdivision (d), (e), or (f) of Section 11055, unless upon the  
6 prescription of a physician, dentist, podiatrist, or veterinarian,  
7 licensed to practice in this state, shall be punished by imprisonment  
8 in a county jail for a period of not more than one year or in the  
9 state prison, *provided however, that every person who possesses*  
10 *any controlled substance that is specified in paragraph (2) of*  
11 *subdivision (d) of Section 11055 shall be punished by imprisonment*  
12 *in the state prison.*

13 (b) (1) Any person who violates subdivision (a) by unlawfully  
14 possessing a controlled substance specified in subdivision (f) of  
15 Section 11056, and who has not previously been convicted of a  
16 violation involving a controlled substance specified in subdivision  
17 (f) of Section 11056, is guilty of a misdemeanor.

18 (2) Any person who violates subdivision (a) by unlawfully  
19 possessing a controlled substance specified in subdivision (g) of  
20 Section 11056 is guilty of a misdemeanor.

21 (c) In addition to any fine assessed under subdivision (b), the  
22 judge may assess a fine not to exceed seventy dollars (\$70) against  
23 any person who violates subdivision (a), with the proceeds of this  
24 fine to be used in accordance with Section 1463.23 of the Penal  
25 Code. The court shall, however, take into consideration the  
26 defendant's ability to pay, and no defendant shall be denied  
27 probation because of his or her inability to pay the fine permitted  
28 under this subdivision.

29 SEC. 13. Section 11378 of the Health and Safety Code is  
30 amended to read:

31 11378. Except as otherwise provided in Article 7 (commencing  
32 with Section 4211) of Chapter 9 of Division 2 of the Business and  
33 Professions Code, every person who possesses for sale any  
34 controlled substance which is ~~(1)~~ (a) classified in Schedule III,  
35 IV, or V and which is not a narcotic drug, except subdivision (g)  
36 of Section 11056, ~~(2)~~ (b) specified in subdivision (d) of Section  
37 11054, except paragraphs (13), (14), (15), (20), (21), (22), and  
38 (23) of subdivision (d), ~~(3)~~ (c) specified in paragraph (11) of  
39 subdivision (c) of Section 11056, ~~(4)~~ (d) specified in paragraph  
40 (2) or (3) of subdivision (f) of Section 11054, or ~~(5)~~ (e) specified

1 in subdivision (d), (e), or (f), except paragraph (3) of subdivision  
2 (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision  
3 (f), of Section 11055, shall be punished by imprisonment in the  
4 state prison, *provided however, that every person who possesses*  
5 *for sale any controlled substance that is specified in paragraph*  
6 *(2) of subdivision (d) of Section 11055 shall be punished by*  
7 *imprisonment in the state prison for two, three, or four years.*

8 SEC. 14. Section 11379 of the Health and Safety Code is  
9 amended to read:

10 11379. (a) Except as otherwise provided in subdivision (b)  
11 and in Article 7 (commencing with Section 4211) of Chapter 9 of  
12 Division 2 of the Business and Professions Code, every person  
13 who transports, imports into this state, sells, furnishes, administers,  
14 or gives away, or offers to transport, import into this state, sell,  
15 furnish, administer, or give away, or attempts to import into this  
16 state or transport any controlled substance which is (1) classified  
17 in Schedule III, IV, or V and which is not a narcotic drug, except  
18 subdivision (g) of Section 11056, (2) specified in subdivision (d)  
19 of Section 11054, except paragraphs (13), (14), (15), (20), (21),  
20 (22), and (23) of subdivision (d), (3) specified in paragraph (11)  
21 of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
22 or (3) of subdivision (f) of Section 11054, or (5) specified in  
23 subdivision (d) or (e), except paragraph (3) of subdivision (e), or  
24 specified in subparagraph (A) of paragraph (1) of subdivision (f),  
25 of Section 11055, unless upon the prescription of a physician,  
26 dentist, podiatrist, or veterinarian, licensed to practice in this state,  
27 shall be punished by imprisonment in the state prison for a period  
28 of two, three, or four years, *provided however, that every person*  
29 *who transports, imports into this state, sells, furnishes, administers,*  
30 *or gives away, offers to transport, imports into this state, sells,*  
31 *furnishes, administers, or gives away, or attempts to import into*  
32 *this state, or transports any controlled substance that is specified*  
33 *in paragraph (2) of subdivision (d) of Section 11055 shall be*  
34 *punished by imprisonment in the state prison for three, four, or*  
35 *five years.*

36 (b) Notwithstanding the penalty provisions of subdivision (a),  
37 any person who transports for sale any controlled substances  
38 specified in subdivision (a) within this state from one county to  
39 another noncontiguous county shall be punished by imprisonment  
40 in the state prison for three, six, or nine years.

1 SEC. 15. Section 32 of the Penal Code is amended to read:

2 32. (a) Every person who, after a felony has been committed,  
3 harbors, conceals or aids a principal in such felony, with the intent  
4 that said principal may avoid or escape from arrest, trial, conviction  
5 or punishment, having knowledge that said principal has committed  
6 such felony or has been charged with such felony or convicted  
7 thereof, is an accessory to such felony.

8 (b) *Any person who knowingly makes a materially false*  
9 *statement to a peace officer or prosecutor regarding facts relevant*  
10 *to investigation of a felony committed for the benefit of, at the*  
11 *direction of, or in association with a criminal street gang as*  
12 *described in Section 186.22, or investigation of a violent felony*  
13 *as described in subdivision (c) of Section 667.5, shall be an*  
14 *accessory to that felony if all of the following are true:*

15 (1) *Prior to making the false statement the person was not a*  
16 *principal or accessory to the felony.*

17 (2) *The statement was made with the intent that the principal*  
18 *may avoid or escape arrest, trial, conviction, or punishment.*

19 (3) *The person either had knowledge that the principal had*  
20 *committed the felony or the principal is convicted of the underlying*  
21 *felony.*

22 (c) *The provisions of subdivision (b) shall not be construed to*  
23 *limit prosecution for making false statements under any other*  
24 *provision of law.*

25 SEC. 16. Section 136.1 of the Penal Code is amended to read:

26 136.1. (a) Except as provided in subdivision (c), any person  
27 who does any of the following is guilty of a public offense and  
28 shall be punished by imprisonment in a county jail for not more  
29 than one year or in the state prison:

30 (1) Knowingly and maliciously prevents or dissuades any  
31 witness or victim from attending or giving testimony at any trial,  
32 proceeding, or inquiry authorized by law.

33 (2) Knowingly and maliciously attempts to prevent or dissuade  
34 any witness or victim from attending or giving testimony at any  
35 trial, proceeding, or inquiry authorized by law.

36 (3) For purposes of this section, evidence that the defendant  
37 was a family member who interceded in an effort to protect the  
38 witness or victim shall create a presumption that the act was  
39 without malice.

1 (b) Except as provided in subdivision (c), every person who  
2 attempts to prevent or dissuade another person who has been the  
3 victim of a crime or who is witness to a crime from doing any of  
4 the following is guilty of a public offense and shall be punished  
5 by imprisonment in a county jail for not more than one year or in  
6 the state prison:

7 (1) Making any report of that victimization to any peace officer  
8 or state or local law enforcement officer or probation or parole or  
9 correctional officer or prosecuting agency or to any judge.

10 (2) Causing a complaint, indictment, information, probation or  
11 parole violation to be sought and prosecuted, and assisting in the  
12 prosecution thereof.

13 (3) Arresting or causing or seeking the arrest of any person in  
14 connection with that victimization.

15 (c) Every person doing any of the acts described in subdivision  
16 (a) or (b) knowingly and maliciously under any one or more of the  
17 following circumstances, is guilty of a felony punishable by  
18 imprisonment in the state prison for two, three, or four years under  
19 any of the following circumstances:

20 (1) Where the act is accompanied by force or by an express or  
21 implied threat of force or violence, upon a witness or victim or  
22 any third person or the property of any victim, witness, or any third  
23 person.

24 (2) Where the act is in furtherance of a conspiracy.

25 (3) Where the act is committed by any person who has been  
26 convicted of any violation of this section, any predecessor law  
27 hereto or any federal statute or statute of any other state which, if  
28 the act prosecuted was committed in this state, would be a violation  
29 of this section.

30 (4) Where the act is committed by any person for pecuniary  
31 gain or for any other consideration acting upon the request of any  
32 other person. All parties to such a transaction are guilty of a felony.

33 *(d) Any person who, by means of force or by express or implied*  
34 *threat of force, attempts to prevent or dissuade a judge, juror,*  
35 *prosecutor, public defender, or peace officer from participating*  
36 *in the arrest, prosecution, trial, or impartial judgment of any*  
37 *criminal suspect is guilty of a felony punishable by imprisonment*  
38 *in the state prison for two, three, or four years.*

39 *(e) Any person who, by means of force or by express or implied*  
40 *threat of force or violence, attempts to prevent or dissuade any*

1 *person from filing, authorizing, or implementing a gang injunction*  
2 *or nuisance abatement process in response to gang, drug, or other*  
3 *organized criminal activity, or attempts to prevent or dissuade any*  
4 *person acting under color of law from inspecting premises where*  
5 *such activities occur, shall be guilty of a felony punishable by*  
6 *imprisonment in the state prison for two, three, or four years.*

7 *(f) Any person who, by means of force or by express or implied*  
8 *threat of force or violence, attempts to retaliate against any person*  
9 *who lawfully participated in any criminal or civil process protected*  
10 *pursuant to subdivision (a), (b), (d), or (e) shall be guilty of a*  
11 *felony punishable by imprisonment in the state prison for two,*  
12 *three, or four years.*

13 ~~(d)~~

14 *(g) Every person attempting the commission of any act described*  
15 *in subdivisions (a), (b), ~~and~~ (c), and (d) is guilty of the offense*  
16 *attempted without regard to success or failure of the attempt. The*  
17 *fact that no person was injured physically, or in fact intimidated,*  
18 *shall be no defense against any prosecution under this section.*

19 ~~(e)~~

20 *(h) Nothing in this section precludes the imposition of an*  
21 *enhancement for great bodily injury where the injury inflicted is*  
22 *significant or substantial.*

23 ~~(f)~~

24 *(i) The use of force during the commission of any offense*  
25 *described in subdivision (c) shall be considered a circumstance in*  
26 *aggravation of the crime in imposing a term of imprisonment under*  
27 *subdivision (b) of Section 1170.*

28 SEC. 17. Section 186.22 of the Penal Code is amended to read:

29 186.22. (a) Any person who actively participates in any  
30 criminal street gang with knowledge that its members engage in  
31 or have engaged in a pattern of criminal gang activity, and who  
32 willfully promotes, furthers, or assists in any felonious criminal  
33 conduct by members of that gang, shall be punished by  
34 imprisonment in a county jail for a period not to exceed one year,  
35 or by imprisonment in the state prison for 16 months, or two or  
36 three years.

37 (b) (1) Except as provided in paragraphs (4) and (5), any person  
38 ~~who is convicted of~~ *commits* a felony ~~committed or attempts a~~  
39 *felony* for the benefit of, at the direction of, or in association with  
40 any criminal street gang, with the specific intent to promote,

1 further, or assist in any criminal conduct by gang members, shall;  
2 ~~upon conviction of that felony, in addition and consecutive to the~~  
3 ~~punishment prescribed for the felony or attempted felony of which~~  
4 ~~he or she has been convicted~~, be punished *by an additional and*  
5 *consecutive term of imprisonment in the state prison* as follows:

6 (A) Except as provided in subparagraphs (B) and (C), the person  
7 shall be punished by an additional term of two, three, or four years  
8 at the court's discretion.

9 (B) If the felony is a serious felony, as defined in subdivision  
10 (c) of Section 1192.7, the person shall be punished by an additional  
11 term of five years.

12 (C) If the felony is a violent felony, as defined in subdivision  
13 (c) of Section 667.5, the person shall be punished by an additional  
14 term of 10 years.

15 (2) If the underlying felony described in paragraph (1) is  
16 committed on the grounds of, or within 1,000 feet of, a public or  
17 private elementary, vocational, junior high, or high school, during  
18 hours in which the facility is open for classes or school-related  
19 programs or when minors are using the facility, that fact shall be  
20 a circumstance in aggravation of the crime in imposing a term  
21 under paragraph (1).

22 (3) ~~The court shall order the imposition of the middle term of~~  
23 ~~the sentence enhancement, unless there are circumstances in~~  
24 ~~aggravation or mitigation.~~ The court shall state the reasons for its  
25 choice of sentencing enhancements on the record at the time of  
26 the sentencing.

27 (4) Any person who ~~is convicted of~~ *commits* a felony enumerated  
28 in this paragraph ~~committed~~ for the benefit of, at the direction of,  
29 or in association with any criminal street gang, with the specific  
30 intent to promote, further, or assist in any criminal conduct by  
31 gang members, shall, ~~upon conviction of that felony, be sentenced~~  
32 ~~to an indeterminate term of life imprisonment with a minimum~~  
33 ~~term of the indeterminate sentence calculated as the greater of in~~  
34 ~~addition to any other enhancements or punishment provisions that~~  
35 ~~may apply, be punished as follows:~~

36 (A) ~~The term determined by the court pursuant to Section 1170~~  
37 ~~for the underlying conviction, including any enhancement~~  
38 ~~applicable under Chapter 4.5 (commencing with Section 1170) of~~  
39 ~~Title 7 of Part 2, or any period prescribed by Section 3046, if the~~

1 ~~felony is any of the offenses enumerated in subparagraph (B) or~~  
2 ~~(C) of this paragraph.~~

3 ~~(B) Imprisonment~~

4 (A) *By imprisonment* in the state prison for 15 years *to life*, if  
5 the felony is a home invasion robbery, in violation of subparagraph  
6 (A) of paragraph (1) of subdivision (a) of Section 213; carjacking,  
7 as defined in Section 215; a felony violation of Section 246; or a  
8 *felony* violation of Section ~~12022.55~~ 12034.

9 ~~(C) Imprisonment~~

10 (B) *By imprisonment* in the state prison for ~~seven years~~ *life*, if  
11 the felony is extortion, as defined in Section 519; or threats to  
12 victims ~~and~~, witnesses, *judges, jurors, prosecutors, public*  
13 *defenders, or peace officers*, as defined in Section 136.1.

14 (5) (A) Except as provided in paragraph (4) *and subparagraph*  
15 *(B)*, any person who violates this subdivision in the commission  
16 of a felony punishable by imprisonment in the state prison for life  
17 shall not be paroled until a minimum of 15 calendar years have  
18 been served.

19 (B) *For any felony described in subparagraph (A), if the*  
20 *punishment provided in paragraph (1) of this subdivision would*  
21 *result in a longer term of imprisonment, then it shall apply instead*  
22 *of the punishment provided in subparagraph (A).*

23 (c) If the court grants probation or suspends the execution of  
24 sentence imposed upon the defendant for a violation of subdivision  
25 (a), or in cases involving a true finding of the enhancement  
26 enumerated in subdivision (b), the court shall require that the  
27 defendant serve a minimum of 180 days in a county jail as a  
28 condition thereof.

29 (d) Any person who ~~is convicted of~~ *commits* a public offense  
30 punishable as a felony or a misdemeanor, ~~which is committed~~ for  
31 the benefit of, at the direction of or in association with, any criminal  
32 street gang with the specific intent to promote, further, or assist in  
33 any criminal conduct by gang members, shall be punished by  
34 imprisonment in the county jail not to exceed one year, or by  
35 imprisonment in the state prison for one, two, or three years,  
36 provided that any person sentenced to imprisonment in the county  
37 jail shall be imprisoned for a period not to exceed one year, but  
38 not less than 180 days, and shall not be eligible for release upon  
39 completion of sentence, parole, or any other basis, until he or she  
40 has served 180 days. If the court grants probation or suspends the



1 execution of sentence imposed upon the defendant, it shall require  
2 as a condition thereof that the defendant serve 180 days in a county  
3 jail.

4 (e) As used in this chapter, “pattern of criminal gang activity”  
5 means the commission of, attempted commission of, conspiracy  
6 to commit, or solicitation of, sustained juvenile petition for, or  
7 conviction of two or more of the following offenses, provided at  
8 least one of these offenses occurred after the effective date of this  
9 chapter and the last of those offenses occurred within three years  
10 after a prior offense, and the offenses were committed on separate  
11 occasions, or by two or more persons:

12 (1) Assault with a deadly weapon or by means of force likely  
13 to produce great bodily injury, as defined in Section 245.

14 (2) Robbery, as defined in Chapter 4 (commencing with Section  
15 211) of Title 8 of Part 1.

16 (3) Unlawful homicide or manslaughter, as defined in Chapter  
17 1 (commencing with Section 187) of Title 8 of Part 1.

18 (4) The sale, possession for sale, transportation, manufacture,  
19 offer for sale, or offer to manufacture controlled substances as  
20 defined in Sections 11054, 11055, 11056, 11057, and 11058 of  
21 the Health and Safety Code.

22 (5) Shooting at an inhabited dwelling or occupied motor vehicle,  
23 as defined in Section 246.

24 (6) Discharging or permitting the discharge of a firearm from  
25 a motor vehicle, as defined in subdivisions (a) and (b) of Section  
26 12034.

27 (7) Arson, as defined in Chapter 1 (commencing with Section  
28 450) of Title 13.

29 (8) The intimidation *or threatening* of witnesses~~and~~, victims,  
30 *judges, jurors, prosecutors, public defenders, or peace officers*,  
31 as defined in Section 136.1.

32 (9) Grand theft, as defined in subdivision (a) or (c) of Section  
33 487.

34 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

35 (11) Burglary, as defined in Section 459.

36 (12) Rape, as defined in Section 261.

37 (13) Looting, as defined in Section 463.

38 (14) Money laundering, as defined in Section 186.10.

39 (15) Kidnapping, as defined in Section 207.

40 (16) Mayhem, as defined in Section 203.

- 1 (17) Aggravated mayhem, as defined in Section 205.
- 2 (18) Torture, as defined in Section 206.
- 3 (19) Felony extortion, as defined in Sections 518 and 520.
- 4 (20) Felony vandalism, as defined in paragraph (1) of
- 5 subdivision (b) of Section 594.
- 6 (21) Carjacking, as defined in Section 215.
- 7 (22) The sale, delivery, or transfer of a firearm, as defined in
- 8 Section 12072.
- 9 (23) Possession of a pistol, revolver, or other firearm capable
- 10 of being concealed upon the person in violation of paragraph (1)
- 11 of subdivision (a) of Section 12101.
- 12 (24) Threats to commit crimes resulting in death or great bodily
- 13 injury, as defined in Section 422.
- 14 (25) Theft and unlawful taking or driving of a vehicle, as defined
- 15 in Section 10851 of the Vehicle Code.
- 16 (26) Felony theft of an access card or account information, as
- 17 defined in Section 484e.
- 18 (27) Counterfeiting, designing, using, attempting to use an
- 19 access card, as defined in Section 484f.
- 20 (28) Felony fraudulent use of an access card or account
- 21 information, as defined in Section 484g.
- 22 (29) Unlawful use of personal identifying information to obtain
- 23 credit, goods, services, or medical information, as defined in
- 24 Section 530.5.
- 25 (30) Wrongfully obtaining Department of Motor Vehicles
- 26 documentation, as defined in Section 529.7.
- 27 (31) Prohibited possession of a firearm in violation of Section
- 28 12021.
- 29 (32) Carrying a concealed firearm in violation of Section 12025.
- 30 (33) Carrying a loaded firearm in violation of Section 12031.
- 31 (f) As used in this chapter, “criminal street gang” means any
- 32 ongoing organization, association, or group of three or more
- 33 persons, whether formal or informal, having as one of its primary
- 34 activities the commission of one or more of the criminal acts
- 35 enumerated in paragraphs (1) to (25), inclusive, or (31) to (33),
- 36 inclusive, of subdivision (e), having a common name or common
- 37 identifying sign or symbol, and whose members individually or
- 38 collectively engage in or have engaged in a pattern of criminal
- 39 gang activity.

1     (g) ~~Notwithstanding any other law, the court may strike the~~  
2 ~~additional punishment for the enhancements provided in this~~  
3 ~~section or~~ *The court may* refuse to impose the minimum jail  
4 sentence for misdemeanors in an unusual case where the interests  
5 of justice would best be served, if the court specifies on the record  
6 and enters into the minutes the circumstances indicating that the  
7 interests of justice would best be served by that disposition.

8     (h) Notwithstanding any other provision of law, for each person  
9 committed to the Division of Juvenile Facilities for a conviction  
10 pursuant to subdivision (a) or (b) of this section, the offense shall  
11 be deemed one for which the state shall pay the rate of 100 percent  
12 of the per capita institutional cost of the Division of Juvenile  
13 Facilities, pursuant to Section 912.5 of the Welfare and Institutions  
14 Code.

15     (i) In order to secure a conviction or sustain a juvenile petition,  
16 pursuant to subdivision (a) it is not necessary for the prosecution  
17 to prove that the person devotes all, or a substantial part, of his or  
18 her time or efforts to the criminal street gang, nor is it necessary  
19 to prove that the person is a member of the criminal street gang.  
20 Active participation in the criminal street gang is all that is  
21 required.

22     (j) A pattern of gang activity may be shown by the commission  
23 of one or more of the offenses enumerated in paragraphs (26) to  
24 (30), inclusive, of subdivision (e), and the commission of one or  
25 more of the offenses enumerated in paragraphs (1) to (25),  
26 inclusive, or (31) to (33), inclusive of subdivision (e). A pattern  
27 of gang activity cannot be established solely by proof of  
28 commission of offenses enumerated in paragraphs (26) to (30),  
29 inclusive, of subdivision (e), alone.

30     (k) *(1) Notwithstanding paragraph (4) of subdivision (a) of*  
31 *Section 166, any willful and knowing violation of any injunction*  
32 *issued pursuant to Section 3479 of the Civil Code against a*  
33 *criminal street gang, as defined in Section 186.22, or its individual*  
34 *members, shall constitute contempt of court, a misdemeanor,*  
35 *punishable by a fine of not more than one thousand dollars*  
36 *(\$1,000), by imprisonment in a county jail for not more than one*  
37 *year, or by both that fine and imprisonment.*

38     *(2) A conviction for a violation of any order described in*  
39 *paragraph (1) occurring within seven years of a prior conviction*  
40 *for a violation of any of those orders is punishable by imprisonment*

1 in a county jail for not less than 90 days and not more than one  
2 year.

3 (3) A conviction for a violation of any order described in  
4 paragraph (1) occurring within seven years of two or more prior  
5 convictions for violations of any of those orders shall be punished  
6 by imprisonment in county jail not to exceed one year, but not less  
7 than 180 days, or by imprisonment in the state prison for one, two,  
8 or three years. If the court grants probation or suspends the  
9 execution of the sentence imposed upon the defendant, it shall  
10 require as a condition thereof that the defendant serve 180 days  
11 in the county jail.

12 (4) The penalties in this subdivision shall apply unless a greater  
13 penalty is authorized by subdivision (d) or any other provision of  
14 law.

15 (l) Any person found guilty as an accessory to a felony, within  
16 the meaning of Section 32, shall be subject to one-half the  
17 punishment prescribed for a principal committing the felony if it  
18 pled and proved that the felony was committed for the benefit of,  
19 at the direction of, or in association with any criminal street gang  
20 unless a greater penalty is authorized by any other provision of  
21 law.

22 SEC. 18. Section 186.22a of the Penal Code is amended to  
23 read:

24 186.22a. (a) Every building or place used by members of a  
25 criminal street gang for the purpose of the commission of the  
26 offenses listed in subdivision (e) of Section 186.22 or any offense  
27 involving dangerous or deadly weapons, burglary, or rape, and  
28 every building or place wherein or upon which that criminal  
29 conduct by gang members takes place, is a nuisance which shall  
30 be enjoined, abated, and prevented, and for which damages may  
31 be recovered, whether it is a public or private nuisance.

32 (b) Any action for injunction or abatement filed pursuant to  
33 subdivision (a), including an action filed by the Attorney General,  
34 shall proceed according to the provisions of Article 3 (commencing  
35 with Section 11570) of Chapter 10 of Division 10 of the Health  
36 and Safety Code, ~~except that all of the following shall apply:~~.

37 ~~(1) The court shall not assess a civil penalty against any person~~  
38 ~~unless that person knew or should have known of the unlawful~~  
39 ~~acts.~~

40 ~~(2) No order of eviction or closure may be entered.~~

1     ~~(3) All injunctions issued shall be limited to those necessary to~~  
2 ~~protect the health and safety of the residents or the public or those~~  
3 ~~necessary to prevent further criminal activity.~~

4     ~~(4) Suit may not be filed until 30-day notice of the unlawful use~~  
5 ~~or criminal conduct has been provided to the owner by mail, return~~  
6 ~~receipt requested, postage prepaid, to the last known address.~~

7     (c) Whenever an injunction is issued pursuant to subdivision  
8 (a), or Section 3479 of the Civil Code, to abate gang activity  
9 constituting a nuisance, the Attorney General or any district  
10 attorney or any prosecuting city attorney may maintain an action  
11 for money damages on behalf of the community or neighborhood  
12 injured by that nuisance. Any money damages awarded shall be  
13 paid by or collected from assets of the criminal street gang or its  
14 members that were derived from the criminal activity being abated  
15 or enjoined. Only persons who knew or should have known of the  
16 unlawful acts shall be personally liable for the payment of the  
17 damages awarded. In a civil action for damages brought pursuant  
18 to this subdivision, the Attorney General, district attorney, or city  
19 attorney may use, but is not limited to the use of, the testimony of  
20 experts to establish damages suffered by the community or  
21 neighborhood injured by the nuisance. The damages recovered  
22 pursuant to this subdivision shall be deposited into a separate  
23 segregated fund for payment to the governing body of the city or  
24 county in whose political subdivision the community or  
25 neighborhood is located, and that governing body shall use those  
26 assets solely for the benefit of the community or neighborhood  
27 that has been injured by the nuisance.

28     (d) No nonprofit or charitable organization which is conducting  
29 its affairs with ordinary care or skill, and no governmental entity,  
30 shall be abated pursuant to subdivisions (a) and (b).

31     (e) Nothing in this chapter shall preclude any aggrieved person  
32 from seeking any other remedy provided by law.

33     (f) (1) Any firearm, ammunition which may be used with the  
34 firearm, or any deadly or dangerous weapon which is owned or  
35 possessed by a member of a criminal street gang for the purpose  
36 of the commission of any of the offenses listed in subdivision (e)  
37 of Section 186.22, or the commission of any burglary or rape, may  
38 be confiscated by any law enforcement agency or peace officer.

39     (2) In those cases where a law enforcement agency believes that  
40 the return of the firearm, ammunition, or deadly weapon

1 confiscated pursuant to this subdivision, is or will be used in  
2 criminal street gang activity or that the return of the item would  
3 be likely to result in endangering the safety of others, the law  
4 enforcement agency shall initiate a petition in the superior court  
5 to determine if the item confiscated should be returned or declared  
6 a nuisance.

7 (3) No firearm, ammunition, or deadly weapon shall be sold or  
8 destroyed unless reasonable notice is given to its lawful owner if  
9 his or her identity and address can be reasonably ascertained. The  
10 law enforcement agency shall inform the lawful owner, at that  
11 person's last known address by registered mail, that he or she has  
12 30 days from the date of receipt of the notice to respond to the  
13 court clerk to confirm his or her desire for a hearing and that the  
14 failure to respond shall result in a default order forfeiting the  
15 confiscated firearm, ammunition, or deadly weapon as a nuisance.

16 (4) If the person requests a hearing, the court clerk shall set a  
17 hearing no later than 30 days from receipt of that request. The  
18 court clerk shall notify the person, the law enforcement agency  
19 involved, and the district attorney of the date, time, and place of  
20 the hearing.

21 (5) At the hearing, the burden of proof is upon the law  
22 enforcement agency or peace officer to show by a preponderance  
23 of the evidence that the seized item is or will be used in criminal  
24 street gang activity or that return of the item would be likely to  
25 result in endangering the safety of others. All returns of firearms  
26 shall be subject to Section 12021.3.

27 (6) If the person does not request a hearing within 30 days of  
28 the notice or the lawful owner cannot be ascertained, the law  
29 enforcement agency may file a petition that the confiscated firearm,  
30 ammunition, or deadly weapon be declared a nuisance. If the items  
31 are declared to be a nuisance, the law enforcement agency shall  
32 dispose of the items as provided in Section 12028.

33 SEC. 19. Section 186.22b is added to the Penal Code, to read:

34 186.22b. (a) A criminal street gang may be sued in the name  
35 it has assumed or by which it is known.

36 (b) Delivery by hand of a copy of any process against the  
37 criminal street gang to any natural person designated by it as its  
38 agent for service of process, shall constitute valid service on the  
39 criminal street gang. If designation of an agent for the purpose of  
40 service has not been made, or if the agent cannot with reasonable

1 diligence be found, the court or judge shall make an order that  
2 service be made upon the criminal street gang by delivery by hand  
3 of a copy of the process to three or more members of the criminal  
4 street gang designated in the order who actively participate in the  
5 criminal street gang. The court may, in its discretion, order, in  
6 addition to the foregoing, that a summons be served in any manner  
7 that is reasonably calculated to give actual notice to the criminal  
8 street gang. Service in the manner ordered pursuant to this section  
9 shall constitute valid service on the criminal street gang.

10 SEC. 20. Section 186.26 of the Penal Code is amended to read:

11 186.26. (a) Any person who solicits or recruits another to  
12 actively participate in a criminal street gang, as defined in  
13 subdivision (f) of Section 186.22, with the intent that the person  
14 solicited or recruited *actively participate in a pattern of the criminal*  
15 *street gang activity, as defined in subdivision (e) of Section 186.22,*  
16 or with the intent that the person solicited or recruited promote,  
17 further, or assist in any felonious conduct by members of the  
18 criminal street gang, shall be punished by imprisonment in the  
19 state prison for 16 months, or two or three years.

20 (b) Any person who threatens another person with physical  
21 violence on two or more separate occasions within any 30-day  
22 period with the intent to coerce, induce, or solicit any person to  
23 actively participate in a criminal street gang, as defined in  
24 subdivision (f) of Section 186.22, shall be punished by  
25 imprisonment in the state prison for two, three, or four years.

26 (c) Any person who uses physical violence to coerce, induce,  
27 or solicit another person to actively participate in any criminal  
28 street gang, as defined in subdivision (f) of Section 186.22, or to  
29 prevent the person from leaving a criminal street gang, shall be  
30 punished by imprisonment in the state prison for three, four, or  
31 five years.

32 (d) ~~If~~ *Except as provided in subdivision (e), if* the person  
33 solicited, recruited, coerced, or threatened pursuant to subdivision  
34 (a), (b), or (c) is a minor, an additional term of three years shall  
35 be imposed in addition and consecutive to the penalty prescribed  
36 for a violation of any of these subdivisions.

37 (e) *If the person solicited, recruited, coerced, or threatened,*  
38 *pursuant to subdivision (a), (b), or (c) is a minor under 14 years*  
39 *of age, an additional term of five years shall be imposed in addition*

1 *and consecutive to the penalty prescribed for a violation of any of*  
2 *these subdivisions.*

3 *(f) Any person who violated subdivision (b) or (c) shall be a*  
4 *principal to any subsequent felony committed by the subject of his*  
5 *or her solicitation, recruitment, coercion, or threat in the event*  
6 *that both of the following occur:*

7 *(1) The subject commits a felony for the benefit of, at the*  
8 *direction of, or in association with the criminal street gang.*

9 *(2) The felony occurs within one year of the last act constituting*  
10 *a violation of this section.*

11 ~~(e)~~

12 *(g) Nothing in this section shall be construed to limit prosecution*  
13 *under any other provision of law.*

14 SEC. 21. Section 186.30 of the Penal Code is amended to read:

15 186.30. (a) *(1) Any person described in subdivision (b) shall*  
16 *register with the chief of police of the city in which he or she*  
17 *resides, or the sheriff of the county if he or she resides in an*  
18 *unincorporated area or a city that has no police department, within*  
19 *10 days of release from custody or within 10 days of his or her*  
20 *arrival in any city, county, or city and county to reside there,*  
21 *whichever occurs first, and annually thereafter, and upon changing*  
22 *residence.*

23 *(2) If the person who is registering has more than one residential*  
24 *address at which he or she regularly resides, he or she shall*  
25 *register in each of the jurisdictions in which he or she regularly*  
26 *resides, in accordance with paragraph (1), regardless of the*  
27 *number of days or nights spent there. If two or more of the*  
28 *addresses are within the same jurisdiction, the person shall provide*  
29 *the registering authority with all of the addresses located within*  
30 *that jurisdiction where he or she regularly resides.*

31 *(b) Subdivision (a) shall apply to any person convicted in a*  
32 *criminal court or who has had a petition sustained in a juvenile*  
33 *court in this state for any of the following offenses:*

34 *(1) Subdivision (a) of Section 186.22.*

35 *(2) Any crime where the enhancement specified in subdivision*  
36 *(b) of Section 186.22 is found to be true.*

37 *(3) Any crime that the court finds is gang related at the time of*  
38 *sentencing or disposition.*

39 *(c) (1) Any person who is required to register under this section*  
40 *based upon a misdemeanor conviction or juvenile adjudication*



1 *who willfully violates any requirement of this section is guilty of*  
2 *a misdemeanor punishable by imprisonment in a county jail not*  
3 *exceeding one year.*

4 *(2) Any person who is required to register under this section,*  
5 *based upon a felony conviction or juvenile adjudication, who*  
6 *willfully violates any requirement of this section or who has a*  
7 *prior adjudication for the offense of failing to register under this*  
8 *section and who subsequently and willfully violates any*  
9 *requirement of this section is guilty of a felony and shall be*  
10 *punished by imprisonment in the state prison for 16 months or two*  
11 *or three years. If probation is granted or if the imposition or*  
12 *execution of sentence is suspended, it shall be a condition of the*  
13 *probation or suspension that the person serves at least 90 days in*  
14 *a county jail. The penalty described in this paragraph shall apply*  
15 *whether or not the person has been released on parole or has been*  
16 *discharged from parole.*

17 *(d) For the purposes of this section and Section 186.32,*  
18 *imposition of the requirement to register shall be effective on the*  
19 *day the registrant is sentenced or on the day of disposition in the*  
20 *juvenile court unless he or she is in custody, in which case the*  
21 *requirement to register shall become effective upon the registrant's*  
22 *release from custody.*

23 *(e) The registration requirement shall terminate five years after*  
24 *the date it becomes effective unless the registrant is subsequently*  
25 *incarcerated, in which case the court may toll the registration*  
26 *requirement or reimpose gang registration as a condition upon*  
27 *release from custody.*

28 SEC. 22. Section 186.34 is added to the Penal Code, to read:

29 186.34. Beginning no later than July 1, 2009, the Department  
30 of Justice shall, on a monthly basis, search all disposition data  
31 submitted by California criminal justice agencies for all persons  
32 who have been convicted or adjudicated of a violation of  
33 subdivision (a) of Section 186.22 or as to whom a sentencing  
34 allegation has been found true pursuant to subdivision (b) of  
35 Section 186.22. The department shall make information regarding  
36 these persons available electronically only to California criminal  
37 justice agencies on a secured Gang Registry department Web site.  
38 The information shall include the person's full name, date of birth,  
39 and, as to each conviction or adjudication, the detaining, arresting,

1 or booking agency, to the extent that this information is available  
2 from the disposition data submitted to the department.

3 SEC. 23. Section 594 of the Penal Code is amended to read:

4 594. (a) Every person who maliciously commits any of the  
5 following acts with respect to any real or personal property not his  
6 or her own, in cases other than those specified by state law, is  
7 guilty of vandalism:

8 (1) Defaces with graffiti or other inscribed material.

9 (2) Damages.

10 (3) Destroys.

11 Whenever a person violates this subdivision with respect to real  
12 property, vehicles, signs, fixtures, furnishings, or property  
13 belonging to any public entity, as defined by Section 811.2 of the  
14 Government Code, or the federal government, it shall be a  
15 permissive inference that the person neither owned the property  
16 nor had the permission of the owner to deface, damage, or destroy  
17 the property.

18 (b) (1) If the amount of defacement, damage, or destruction is  
19 four hundred dollars (\$400) or more, vandalism is punishable by  
20 imprisonment in the state prison or in a county jail not exceeding  
21 one year, or by a fine of not more than ten thousand dollars  
22 (\$10,000), or if the amount of defacement, damage, or destruction  
23 is ten thousand dollars (\$10,000) or more, by a fine of not more  
24 than fifty thousand dollars (\$50,000), or by both that fine and  
25 imprisonment.

26 (2) (A) If the amount of defacement, damage, or destruction is  
27 less than four hundred dollars (\$400), vandalism is punishable by  
28 imprisonment in a county jail not exceeding one year, or by a fine  
29 of not more than one thousand dollars (\$1,000), or by both that  
30 fine and imprisonment.

31 (B) If the amount of defacement, damage, or destruction is less  
32 than four hundred dollars (\$400), and the defendant has been  
33 previously convicted of vandalism or affixing graffiti or other  
34 inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6,  
35 or 640.7, vandalism is punishable by imprisonment in a county  
36 jail for not more than one year, or by a fine of not more than five  
37 thousand dollars (\$5,000), or by both that fine and imprisonment.

38 (C) *More than one act of vandalism committed in any*  
39 *consecutive 12-month period may be aggregated for the purposes*

1 *of paragraphs (1) and (2), if the vandalism was the result of a*  
2 *common scheme, purpose, or plan.*

3 (c) Upon conviction of any person under this section for acts  
4 of vandalism consisting of defacing property with graffiti or other  
5 inscribed materials, the court may, in addition to any punishment  
6 imposed under subdivision (b), order the defendant to clean up,  
7 repair, or replace the damaged property himself or herself, or order  
8 the defendant, and his or her parents or guardians if the defendant  
9 is a minor, to keep the damaged property or another specified  
10 property in the community free of graffiti for up to one year.  
11 Participation of a parent or guardian is not required under this  
12 subdivision if the court deems this participation to be detrimental  
13 to the defendant, or if the parent or guardian is a single parent who  
14 must care for young children.

15 (d) If a minor is personally unable to pay a fine levied for acts  
16 prohibited by this section, the parent of that minor shall be liable  
17 for payment of the fine. A court may waive payment of the fine,  
18 or any part thereof, by the parent upon a finding of good cause.

19 (e) As used in this section, the term “graffiti or other inscribed  
20 material” includes any unauthorized inscription, word, figure,  
21 mark, or design, that is written, marked, etched, scratched, drawn,  
22 or painted on real or personal property.

23 (f) The court may order any person ordered to perform  
24 community service or graffiti removal pursuant to paragraph (1)  
25 of subdivision (c) to undergo counseling.

26 ~~(g) This section shall become operative on January 1, 2002.~~

27 SEC. 24. Section 653.75 of the Penal Code is amended to read:

28 653.75. Any person who commits any public offense while in  
29 custody in any local detention facility, as defined in Section 6031.4,  
30 or any state prison, as defined in Section 4504, is guilty of a crime.  
31 That crime shall be punished as provided in the section prescribing  
32 the punishment for that public offense *or in Section 4505.*

33 SEC. 25. Section 653.77 is added to the Penal Code, to read:

34 653.77. (a) Any person who willfully removes or disables an  
35 electronic, global positioning system (GPS), or other monitoring  
36 device affixed to his or her person, or the person of another,  
37 knowing that the device was affixed as a condition of a criminal  
38 sentence, juvenile court disposition, parole, or probation, is guilty  
39 of a public offense.

(b) (1) Any person subject to electronic, GPS, or other monitoring device based on a misdemeanor conviction, or based on a juvenile adjudication for a misdemeanor offense, who willfully violates subdivision (a) is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars (\$1,000), or both that fine and imprisonment.

(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a misdemeanor conviction, or based upon a juvenile adjudication for a misdemeanor offense, is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars (\$1,000), or both that fine and imprisonment.

(c) (1) Any person subject to electronic, GPS, or other monitoring device based on a felony conviction, juvenile adjudication for a felony offense, or on parole for a felony offense, who willfully violates subdivision (a) is guilty of a felony, punishable by imprisonment in the state prison for 16 months, 2, or 3 years.

(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a felony conviction, or based upon a juvenile conviction for a felony offense is guilty of a felony, punishable by imprisonment in the state prison for 16 months, or 3 years.

(d) Nothing in this section shall be construed to prevent punishment pursuant to any other provision of law that imposes a greater or more severe punishment, including, but not limited to, Section 594.

(e) This section shall not apply to the removal or disabling of an electronic, GPS, or other monitoring device by a physician, emergency medical services technician, or by any other emergency response or medical personnel when doing so is necessary during the course of medical treatment of the person subject to the electronic, GPS, or other monitoring device. This section shall also not apply where the removal or disabling of the electronic, GPS, or other monitoring device is authorized, or required, by a

1 court of law or by the law enforcement, probation, or parole  
2 authority or other entity responsible for placing the electronic,  
3 GPS, or other monitoring device upon the person or, at the time,  
4 has the authority and responsibility to monitor the electronic, GPS,  
5 or other monitoring device.

6 SEC. 26. Section 666.5 of the Penal Code is amended to read:

7 666.5. (a) ~~Every~~Any person who, having been previously  
8 convicted of a ~~felony~~ violation of Section 10851 of the Vehicle  
9 Code, or ~~felony~~ grand theft involving an automobile in violation  
10 of subdivision (d) of Section 487 or former subdivision (3) of  
11 Section 487, as that section read prior to being amended by Section  
12 4 of Chapter 1125 of the Statutes of 1993, or ~~felony~~ grand theft  
13 involving a motor vehicle, as defined in Section 415 of the Vehicle  
14 Code, any trailer, as defined in Section 630 of the Vehicle Code,  
15 any special construction equipment, as defined in Section 565 of  
16 the Vehicle Code, or any vessel, as defined in Section 21 of the  
17 Harbors and Navigation Code in violation of former Section 487h,  
18 or a ~~felony~~ violation of Section 496d regardless of whether or not  
19 the person actually served a prior prison term for those offenses,  
20 is subsequently convicted of any of these offenses shall be punished  
21 by imprisonment in the state prison for two, three, or four years,  
22 or a fine of ten thousand dollars (\$10,000), or both the fine and  
23 the imprisonment.

24 (b) For the purposes of this section, the terms “special  
25 construction equipment” and “vessel” are limited to motorized  
26 vehicles and vessels.

27 (c) The existence of any fact which would bring a person under  
28 subdivision (a) shall be alleged in the ~~information or indictment~~  
29 *accusatory pleading* and either admitted by the defendant in open  
30 court, or found to be true by the ~~jury trying the issue of guilt or by~~  
31 ~~the court where guilt is established by plea of guilty or nolo~~  
32 ~~contendere or by trial by the court sitting without a jury trier of~~  
33 *fact*.

34 (d) *Any person who is subject to punishment under this section,*  
35 *having previously been convicted of two or more of the offenses*  
36 *enumerated in subdivision (a), may be granted probation only in*  
37 *the unusual case in which the interests of justice would best be*  
38 *served. When probation is granted under this subdivision, the court*  
39 *shall specify on the record and shall enter into the minutes the*

1 *circumstances indicating that the interests of justice would best*  
2 *be served by that disposition.*

3 SEC. 27. Section 667.21 is added to the Penal Code, to read:

4 667.21. (a) Notwithstanding any other provision of law, no  
5 person charged with a violent felony described in subdivision (c)  
6 of Section 667.5 or a gang-related felony in violation of subdivision  
7 (a) or (b) of Section 186.22 shall be eligible for bail or be released  
8 on his or her own recognizance pending trial, if, at the time of the  
9 alleged offenses, he or she was within the United States illegally.  
10 The sheriff of the county in which the subject is being held shall  
11 notify federal Immigration Criminal Enforcement (ICE) of the  
12 person's arrest and the charges pending against him or her as soon  
13 as is practical.

14 (b) This section shall not be construed to authorize the arrest of  
15 any person based solely upon his or her alien status or for violation  
16 of federal immigration laws.

17 (c) The sheriff, district attorney, and trial courts of each county  
18 shall record the status of any illegal alien charged, booked, or  
19 convicted of a felony to be reported to the Department of Justice  
20 for inclusion in that person's criminal history in the California  
21 Law Enforcement Telecommunications System (CLETS) so that  
22 reimbursement may be sought from the federal government for  
23 the cost of incarceration.

24 SEC. 28. Section 1319 of the Penal Code is amended to read:

25 1319. (a) No person arrested for a violent felony, as described  
26 in subdivision (c) of Section 667.5, *or for a serious felony, as*  
27 *described in subdivision (c) of Section 1192.7*, may be released on  
28 his or her own recognizance until a hearing is held in open court  
29 before the magistrate or judge, and until the prosecuting attorney  
30 is given notice and a reasonable opportunity to be heard on the  
31 matter. In all cases, these provisions shall be implemented in a  
32 manner consistent with the defendant's right to be taken before a  
33 magistrate or judge without unreasonable delay pursuant to Section  
34 825.

35 (b) A defendant charged with a violent felony, as described in  
36 subdivision (c) of Section 667.5, shall not be released on his or  
37 her own recognizance where it appears, by clear and convincing  
38 evidence, that he or she previously has been charged with a felony  
39 offense and has willfully and without excuse from the court failed  
40 to appear in court as required while that charge was pending. In

1 all other cases, in making the determination as to whether or not  
2 to grant release under this section, the court shall consider all of  
3 the following:

4 (1) The existence of any outstanding felony warrants on the  
5 defendant.

6 (2) Any other information presented in the report prepared  
7 pursuant to Section 1318.1. The fact that the court has not received  
8 the report required by Section 1318.1, at the time of the hearing  
9 to decide whether to release the defendant on his or her own  
10 recognizance, shall not preclude that release.

11 (3) Any other information presented by the prosecuting attorney.

12 (c) The judge or magistrate who, pursuant to this section, grants  
13 or denies release on a person's own recognizance, within the time  
14 period prescribed in Section 825, shall state the reasons for that  
15 decision in the record. This statement shall be included in the  
16 court's minutes. The report prepared by the investigative staff  
17 pursuant to subdivision (b) of Section 1318.1 shall be placed in  
18 the court file for that particular matter.

19 SEC. 29. Section 1319.5 of the Penal Code is amended to read:

20 1319.5. (a) No person described in subdivision (b) who is  
21 arrested for a new offense may be released on his or her own  
22 recognizance until a hearing is held in open court before the  
23 magistrate or judge.

24 (b) Subdivision (a) shall apply to the following:

25 (1) Any person who is currently on felony probation or felony  
26 parole.

27 (2) Any person who has failed to appear in court as ordered,  
28 resulting in a warrant being issued, ~~three~~ *two* or more times over  
29 the three years preceding the current arrest, except for infractions  
30 arising from violations of the Vehicle Code, and who is arrested  
31 for any of the following offenses:

32 (A) Any felony offense.

33 (B) Any violation of the California Street Terrorism  
34 Enforcement and Prevention Act (Chapter 11 (commencing with  
35 Section 186.20) of Title 7 of Part 1).

36 (C) Any violation of Chapter 9 (commencing with Section 240)  
37 of Title 8 of Part 1 (assault and battery).

38 (D) A violation of Section 484 (theft).

39 (E) A violation of Section 459 (burglary).

(F) Any offense in which the defendant is alleged to have been armed with or to have personally used a firearm.

SEC. 30. Section 1464 of the Penal Code is amended to read:

1464. (a) (1) ~~Subject~~ *The Legislature finds and declares that street crime, through its prevalence and brutality, creates numerous victims who require support and services that are best obtained from experienced providers. Further, because the funds allocated to the Driver Training Penalty Assessment Fund are no longer used for their original purpose, it is appropriate to redirect those funds, which are generated by criminal penalty assessments, to victim services and law enforcement training programs.*

(2) *Subject* to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and except as otherwise provided in this section, there shall be levied a state penalty in the amount of ten dollars (\$10) for every ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

~~(2)~~

(3) Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

~~(3) The penalty imposed by this section does not apply to the following:~~

~~(A) Any restitution fine.~~

~~(B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.~~

~~(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.~~

~~(D) The state surcharge authorized by Section 1465.7.~~

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is



1 suspended, in whole or in part, the state penalty shall be reduced  
2 in proportion to the suspension.

3 (c) When any deposited bail is made for an offense to which  
4 this section applies, and for which a court appearance is not  
5 mandatory, the person making the deposit shall also deposit a  
6 sufficient amount to include the state penalty prescribed by this  
7 section for forfeited bail. If bail is returned, the state penalty paid  
8 thereon pursuant to this section shall also be returned.

9 (d) In any case where a person convicted of any offense, to  
10 which this section applies, is in prison until the fine is satisfied,  
11 the judge may waive all or any part of the state penalty, the  
12 payment of which would work a hardship on the person convicted  
13 or his or her immediate family.

14 (e) After a determination by the court of the amount due, the  
15 clerk of the court shall collect the penalty and transmit it to the  
16 county treasury. The portion thereof attributable to Chapter 12  
17 (commencing with Section 76000) of Title 8 of the Government  
18 Code shall be deposited in the appropriate county fund and 70  
19 percent of the balance shall then be transmitted to the State  
20 Treasury, to be deposited in the State Penalty Fund, which is hereby  
21 created, and 30 percent to remain on deposit in the county general  
22 fund. The transmission to the State Treasury shall be carried out  
23 in the same manner as fines collected for the state by a county.

24 (f) The moneys so deposited in the State Penalty Fund shall be  
25 distributed as follows:

26 (1) Once a month there shall be transferred into the Fish and  
27 Game Preservation Fund an amount equal to 0.33 percent of the  
28 state penalty funds deposited in the State Penalty Fund during the  
29 preceding month, except that the total amount shall not be less  
30 than the state penalty levied on fines or forfeitures for violation of  
31 state laws relating to the protection or propagation of fish and  
32 game. These moneys shall be used for the education or training of  
33 department employees which fulfills a need consistent with the  
34 objectives of the Department of Fish and Game.

35 (2) Once a month there shall be transferred into the Restitution  
36 Fund an amount equal to ~~32.02~~ 30.21 percent of the state penalty  
37 funds deposited in the State Penalty Fund during the preceding  
38 month. Those funds shall be made available in accordance with  
39 Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to ~~23.99~~ 32.44 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to ~~25.70~~ 0.67 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to ~~7.88~~ 13.80 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to ~~0.78~~ 1.25 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. ~~The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars (\$850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars (\$850,000) shall be transferred to the Restitution Fund.~~

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to ~~8.64~~ 16.94 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars (\$500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide

1 additional funding to the existing projects funded by the Traumatic  
2 Brain Injury Fund, to support new projects, or to do both.

3 (B) Any moneys deposited in the State Penalty Fund attributable  
4 to the assessments made pursuant to subdivision (i) of Section  
5 27315 of the Vehicle Code on or after the date that Chapter 6.6  
6 (commencing with Section 5564) of Part 1 of Division 5 of the  
7 Welfare and Institutions Code is repealed shall be utilized in  
8 accordance with paragraphs (1) to (8), inclusive, of this subdivision.

9 *(9) Once a month there shall be transferred into the Victim  
10 Trauma Recovery Fund, created pursuant to subdivision (a) of  
11 Section 13974.6 of the Government Code, an amount equal to 1.81  
12 percent of the state penalty funds deposited into the State Penalty  
13 Fund during the preceding month.*

14 *(10) Once a month there shall be transferred into the Child  
15 Advocacy Center Fund, created pursuant to subdivision (c) of  
16 Section 11166.6, an amount equal to 1.89 percent of the state  
17 penalty funds deposited into the State Penalty Fund during the  
18 preceding month.*

19 SEC. 31. Section 2933.25 is added to the Penal Code, to read:

20 2933.25. (a) Notwithstanding any other provision of law, any  
21 person who is convicted of any felony offense that is punishable  
22 by imprisonment in the state prison for life shall be ineligible to  
23 receive any conduct credit reduction of his or her term of  
24 imprisonment pursuant to this chapter, Section 4019, or any other  
25 law providing for conduct credit reduction.

26 (b) As used in this section, life imprisonment includes all  
27 sentences for any crime or enhancement with a maximum term of  
28 life, whether with or without the possibility of parole, and whether  
29 with or without a specific minimum term or minimum period of  
30 confinement before eligibility for parole.

31 (c) This section shall apply only to offenses that are committed  
32 on or after the date that this section becomes operative.

33 SEC. 32. Section 3044.5 is added to the Penal Code, to read:

34 3044.5. (a) The Division of Adult Parole Operations staff shall  
35 report to the Board of Parole Hearings any parolee who is  
36 reasonably believed to have engaged in any of the following:

37 (1) Any conduct described in subdivision (c) of Section 667.5,  
38 or any conduct described in subdivision (c) of Section 1192.7, or  
39 any assaultive conduct resulting in serious injury to the victim.

1 (2) Possession, control, use of, or access to any firearm,  
2 explosive, or crossbow or possession or any use of a weapon as  
3 specified in subdivision (a) of Section 12020, or any knife having  
4 a blade longer than two inches, except as provided in Section 2512  
5 of Title 15 of the California Code of Regulations.

6 (3) Involvement in fraudulent schemes involving more than one  
7 thousand dollars (\$1,000).

8 (4) Sale, transportation, or distribution of any narcotic or other  
9 controlled substances as defined in Division 10 (commencing with  
10 Section 11000) of the Health and Safety Code.

11 (5) A parolee whose whereabouts are unknown and who has  
12 been unavailable for contact for 30 days.

13 (6) Any other conduct or pattern of conduct in violation of the  
14 conditions of parole deemed sufficiently serious by Division of  
15 Adult Parole Operations staff, including repetitive parole violations  
16 and escalating criminal conduct.

17 (7) The refusal to sign any form required by the Department of  
18 Justice explaining his or her duty to register pursuant to Section  
19 290.

20 (8) The failure to provide two blood specimens, a saliva sample,  
21 right thumb print impressions, and full palm print impressions of  
22 each hand pursuant to Sections 295 to 300.3, inclusive, requiring  
23 specified offenders to provide these samples before release.

24 (9) The failure to register pursuant to Section 290, if he or she  
25 is required to register.

26 (10) The failure to sign conditions of parole.

27 (11) Violation of the special condition prohibiting any  
28 association with any member of a prison gang, disruptive group,  
29 or criminal street gang activity, as enumerated in subdivision (e)  
30 of Section 186.22, if such condition was imposed upon him or her.

31 (12) Violation of the special condition prohibiting any  
32 association with any member of a prison gang, disruptive group,  
33 or criminal street gang activity, as enumerated in subdivision (e)  
34 of Section 2513 of Title 15 of the California Code of Regulations,  
35 or the wearing or displaying of any gang color, sign, symbols, or  
36 paraphernalia associated with gang activity, if such condition was  
37 imposed upon him or her.

38 (13) Violation of the special condition requiring compliance  
39 with any antigang abatement injunction, ordinance, or court order,  
40 if such condition was imposed upon him or her.

1 (14) Conduct indicating that the parolee's mental condition has  
2 deteriorated such that the parolee is likely to engage in criminal  
3 behavior.

4 (15) Violation of the residency restrictions set forth in Section  
5 3003.5 for parolees required to register as provided in Section 290.

6 (b) For any parolee whose commitment offense is described in  
7 subdivision (c) of Section 667.5, or subdivision (c) of Section  
8 1192.7, the Division of Adult Parole Operations shall report to the  
9 board any parolee whose conduct is reasonably believed to include  
10 the following kinds of behavior:

11 (1) Any behavior listed in subdivision (a).

12 (2) Any violent, assaultive, or criminal conduct involving  
13 firearms.

14 (3) Any violation of a condition to abstain from alcoholic  
15 beverages.

16 (c) The mandatory reporting requirements listed in subdivisions  
17 (a) and (b) shall not preclude discretionary reporting of any conduct  
18 that the parole agent, unit supervisor, or district administrator feels  
19 is sufficiently serious to report regardless of whether the conduct  
20 is being prosecuted in court.

21 (d) The board, as soon as is practicable, shall require that all  
22 reports required by this section are transmitted electronically and  
23 that reports involving gang, firearm, and violent felonies are given  
24 appropriate priority.

25 SEC. 33. Section 4004.6 is added to the Penal Code, to read:

26 4004.6. (a) This section applies to any county in which any  
27 of the following is true:

28 (1) The county is subject to federal court order imposing inmate  
29 population caps, or is subject to a self-imposed inmate population  
30 cap.

31 (2) The county is releasing inmates early to avoid overcrowding  
32 exceeding 90 percent of jail capacity.

33 (3) The county has exceeded 90 percent of jail capacity on one  
34 or more occasions during each of six consecutive months.

35 (b) The sheriff of any county described in subdivision (a), or in  
36 the case of Madera, Napa, and Santa Clara Counties, the board of  
37 supervisors or the Director of Corrections, shall, following a  
38 resolution adopted after notice and public hearing by the county  
39 board of supervisors, be authorized to employ and operate housing  
40 facilities that meet local health and safety codes for residential

1 occupancy, and are deemed secure, as temporary jails or treatment  
2 facilities. Nothing in this section shall be construed to authorize  
3 the use of noncounty employees to staff temporary jail or treatment  
4 facilities. Facilities located within incorporated areas shall, in  
5 addition, require a resolution by the city council.

6 (1) No inmate shall be housed in a temporary jail or treatment  
7 facility for a period exceeding 90 days based on a single sentence.

8 (2) Determinations regarding the placement of inmates and the  
9 security of jail facilities shall be made exclusively by the county  
10 upon consultation with the board of supervisors.

11 (3) The provisions of this act shall not be construed to limit or  
12 preclude any sheriff, or in the case of Madera, Napa, and Santa  
13 Clara Counties, the board of supervisors or the Director of  
14 Corrections, from employing lawfully authorized early release,  
15 electronic monitoring, or work release programs as necessary.

16 (4) Notwithstanding any other law or regulation, the use of an  
17 emergency jail facility authorized under this section is a  
18 discretionary act and shall not be the basis for civil liability on the  
19 part of the sheriff, the sheriff's department, or the county or  
20 municipality within which the facility is located.

21 (5) Any inmate who escapes from a temporary jail facility or  
22 treatment facility shall be in felony violation of Section 4532.

23 (c) In the event that the condition constituting an emergency  
24 under this section is remedied and the total population of jail  
25 inmates within the subject county remains below 80 percent of  
26 permanent authorized capacity for 12 consecutive months, the  
27 sheriff, or in the case of Madera, Napa, and Santa Clara Counties,  
28 the board of supervisors or the Director of Corrections shall, within  
29 a reasonable period of time, either cease to admit inmates to  
30 emergency facilities or bring the facilities into compliance with  
31 all applicable laws and regulations for permanent inmate housing.

32 (d) The population of jail inmates shall, for the purposes of this  
33 section, include any parole violators held in county jail facilities  
34 under contract with the Department of Corrections and  
35 Rehabilitation.

36 SEC. 34. Section 4504 of the Penal Code is amended to read:

37 4504. For purposes of this chapter:

38 (a) A person is deemed confined in a "state prison" if he *or she*  
39 is confined, *by order made pursuant to law*, in any of the prisons  
40 and institutions ~~specified in Section 5003 by order made pursuant~~

1 ~~to law, including, but not limited to, commitments to under the~~  
2 ~~jurisdiction of the Department of Corrections or the Department~~  
3 ~~of the Youth Authority and Rehabilitation~~, regardless of the  
4 purpose of ~~such the~~ confinement and regardless of the validity of  
5 the order directing ~~such the~~ confinement, until a judgment of a  
6 competent court setting aside ~~such the~~ order becomes final.

7 (b) A person is deemed “confined in” a prison although, at the  
8 time of the offense, he *or she* is temporarily outside its walls or  
9 bounds for the purpose of serving on a work detail or for the  
10 purpose of confinement in a local correctional institution pending  
11 trial or for any other purpose for which a prisoner may be allowed  
12 temporarily outside the walls or bounds of the prison, but a prisoner  
13 who has been released on parole is not deemed “confined in” a  
14 prison for purposes of this chapter.

15 SEC. 35. Section 4505 is added to the Penal Code, to read:

16 4505. (a) Any inmate who commits a felony for the benefit  
17 of, at the direction of, or in association with, a criminal street gang,  
18 as defined in Section 186.22, shall be sentenced to twice the  
19 punishment that is otherwise prescribed for the felony, unless  
20 another provision of law would prescribe a greater penalty.

21 (b) Any person who provides an inmate with a weapon, cell  
22 phone, or other item of contraband that is used in a felony described  
23 in subdivision (a) shall be deemed a principal, as defined in Section  
24 31, and be subject to the same penalties as that inmate, even if the  
25 person does not specifically intend for the weapon, cell phone, or  
26 other item of contraband to be used in the commission of a crime.

27 SEC. 36. Section 5072 is added to the Penal Code, to read:

28 5072. (a) There is hereby established in the State Treasury the  
29 Parolee Reentry Fund for the purpose of funding contracts for  
30 parolee mentoring and workforce preparation programs to be  
31 awarded by the Secretary of the Department of Corrections and  
32 Rehabilitation. Recipients shall be required to have extensive  
33 expertise in designing, managing, monitoring, and evaluating  
34 mentoring, workforce, and comprehensive programs specific to  
35 parolees, including demonstrated evidence of an effective prisoner  
36 reentry program model. For purposes of awarding contracts,  
37 contract recipients shall be required to have extensive related  
38 experience working with federal, state, or local government  
39 agencies.

(b) The purpose of these programs is to target critical funding to assist and prepare offenders for return to their communities in an effort to reduce recidivism rates and the high costs and threat to public safety associated with the prevalent cycle of incarceration, release, and return to prison. The programs are also intended to provide support, opportunities, mentoring, education, and training to offenders on parole. The parameters of the programs shall be as follows:

(1) The programs shall focus on helping parolees make and sustain long-term attachments to the workforce.

(2) The programs shall offer parolees critical support services and referral for housing, addiction, and other services through a case management component. The program will also offer opportunities for positive social support through a mentoring component.

(3) The secretary may authorize programs that employ daily check-in facilities, global positioning system (GPS) devices, voiceprints, or other technologies to monitor the daily activities of parolee participants, especially those who are not actively employed or participating in classes.

(c) The sum of twenty million dollars (\$20,000,000) is hereby appropriated from the General Fund to the Parolee Reentry Fund for the 2009–10 fiscal year and annually thereafter, adjusted for cost-of-living changes pursuant to the California Consumer Price Index.

(d) It is the intent of the Legislature that emphasis be placed on programs that provide public safety through aggressive supervision of parolees. An offender's conduct during the months immediately following release from prison are of critical importance and generally determine whether he or she will return to custody. Parolees must be subject to conditions that include, at a minimum, the state's right to conduct warrantless searches. Programs that help monitor or assist parolees, including GPS, job training, mentoring, and education programs offer substantial promise but cannot be effectively implemented by parole agents who are burdened by caseloads of 100 or more parolees per agent.

Accordingly, the department shall, within six months of the effective date of this act, adopt a public plan designed to recruit and train sufficient parole agents to reduce average caseloads below 50 parolees per agent with lower ratios for sex offenders, gang



1 offenders, and other high control groups. The overall caseload  
2 ratio shall be calculated based upon total parolees and total parole  
3 agents applying the same definitions and parole periods in place  
4 during the 2006–07 base year. The plan shall be fully implemented  
5 no later than December 31, 2010.

6 SEC. 37. Section 11166.6 is added to the Penal Code, to read:

7 11166.6. (a) Each county may establish child advocacy centers  
8 to coordinate the activities of the various agencies involved in the  
9 investigation and prosecution of alleged child abuse, including  
10 those that provide medical services and followup treatment to  
11 victims of child abuse. The purpose of these centers is to protect  
12 victims of child abuse by minimizing traumatizing interviews  
13 through the coordination of efforts of district attorneys, child  
14 welfare social workers, law enforcement, and medical personnel,  
15 among others, and to assist prosecution by reducing the chances  
16 of conflicting or inaccurate information by asking age-appropriate  
17 questions to help procure information that is admissible in court.

18 (b) (1) Member agencies of the child advocacy center shall, at  
19 a minimum, consist of a representative from the district attorney's  
20 office, the sheriff's department, a police department, child  
21 protective services, and may include medical and mental health  
22 professionals.

23 (2) Members of the local child advocacy center shall be trained  
24 to conduct child forensic interviews. The training shall include  
25 instruction in risk assessment, the dynamics of child abuse,  
26 including the abuse of children with special needs, child sexual  
27 abuse and rape of children, and legally sound and age-appropriate  
28 interview and investigation techniques.

29 (c) The Child Advocacy Center Fund is hereby created for the  
30 purposes of supporting child advocacy centers. Money appropriated  
31 from the fund shall be made available through the Office of  
32 Emergency Services to any public or private nonprofit agency for  
33 the establishment or maintenance, or both, of child advocacy  
34 centers that provide comprehensive child advocacy services, as  
35 specified in this section.

36 SEC. 38. Section 12022.52 is added to the Penal Code, to read:

37 12022.52. (a) Notwithstanding any other provision of law,  
38 any person prohibited from possessing a firearm because of a  
39 previous felony conviction or juvenile adjudication, upon  
40 conviction for violation of Section 12025 or 12031, shall be

1 punished by an additional 10 years in prison if either of the  
2 following circumstances are pled and proved:

3 (1) The offender was previously convicted of, or adjudicated  
4 to have committed, any of the following:

5 (A) A felony violation involving possession of a firearm, as  
6 described in Section 12021 or 12021.1.

7 (B) Manufacture, sale, possession for sale, or transportation of  
8 a controlled substance amounting to a felony, as described in  
9 Division 10 (commencing with Section 11000) of the Health and  
10 Safety Code.

11 (C) A felony violation involving assault or battery of a peace  
12 officer, as described in Section 243 or 245.

13 (D) A violent felony, as described in subdivision (c) of Section  
14 667.5.

15 (E) A felony gang offense that constitutes a violation of  
16 subdivision (a) or (b) of Section 186.22.

17 (F) Any felony in which it was pled and proved that the offender  
18 personally used a firearm.

19 (2) If, at the time of the offense that resulted in conviction for  
20 violation of Section 12025 or 12031, any of the following apply:

21 (A) The offender was on felony probation, parole, free on bail,  
22 awaiting sentencing, or subject to a felony arrest warrant.

23 (B) The offender was in felony possession of a controlled  
24 substance.

25 (C) The offender committed a felony battery or felony assault  
26 against a peace officer.

27 (b) This section shall not be construed to permit imposition of  
28 dual penalties based upon the same factual circumstances that  
29 support a penalty enhancement for assaulting a peace officer with  
30 a firearm imposed pursuant to Section 12022.53.

31 SEC. 39. Section 12022.53 of the Penal Code is amended to  
32 read:

33 12022.53. (a) This section applies to the following felonies:

34 (1) Section 187 (murder).

35 (2) Section 203 or 205 (mayhem).

36 (3) Section 207, 209, or 209.5 (kidnapping).

37 (4) Section 211 (robbery).

38 (5) Section 215 (carjacking).

39 (6) Section 220 (assault with intent to commit a specified  
40 felony).

1 (7) Subdivision (d) of Section 245 (assault with a firearm on a  
2 peace officer or firefighter).

3 (8) Section 261 or 262 (rape).

4 (9) Section 264.1 (rape or sexual penetration in concert).

5 (10) Section 286 (sodomy).

6 (11) Section 288 or 288.5 (lewd act on a child).

7 (12) Section 288a (oral copulation).

8 (13) Section 289 (sexual penetration).

9 ~~(14) Subdivision (a) of Section 460 (burglary of the first degree).~~

10 ~~(14)~~

11 ~~(15)~~ Section 4500 (assault by a life prisoner).

12 ~~(15)~~

13 ~~(16)~~ Section 4501 (assault by a prisoner).

14 ~~(16)~~

15 ~~(17)~~ Section 4503 (holding a hostage by a prisoner).

16 ~~(17)~~

17 ~~(18)~~ Any felony punishable by death or imprisonment in the  
18 state prison for life.

19 ~~(18)~~

20 ~~(19)~~ Any attempt to commit a crime listed in this subdivision  
21 other than an assault.

22 (b) Notwithstanding any other provision of law, any person  
23 who, in the commission of a felony specified in subdivision (a),  
24 personally uses a firearm, shall be punished by an additional and  
25 consecutive term of imprisonment in the state prison for 10 years.  
26 The firearm need not be operable or loaded for this enhancement  
27 to apply.

28 (c) Notwithstanding any other provision of law, any person  
29 who, in the commission of a felony specified in subdivision (a),  
30 personally and intentionally discharges a firearm, shall be punished  
31 by an additional and consecutive term of imprisonment in the state  
32 prison for 20 years.

33 (d) Notwithstanding any other provision of law, any person  
34 who, in the commission of a felony specified in subdivision (a),  
35 Section 246, or subdivision (c) or (d) of Section 12034, personally  
36 and intentionally discharges a firearm and proximately causes great  
37 bodily injury, as defined in Section 12022.7, or death, to any person  
38 other than an accomplice, shall be punished by an additional and  
39 consecutive term of imprisonment in the state prison for 25 years  
40 to life.

1 (e) ~~(1)~~—The enhancements provided in this section shall apply  
2 to any person ~~who is charged as a principal in the commission of~~  
3 ~~an offense if both of the following are pled and proved: that~~  
4 ~~includes an allegation pursuant to this section.~~

5 ~~(A) The person violated subdivision (b) of Section 186.22.~~

6 ~~(B) Any principal in the offense committed any act specified~~  
7 ~~in subdivision (b), (c), or (d).~~

8 ~~(2) An enhancement for participation in a criminal street gang~~  
9 ~~pursuant to Chapter 11 (commencing with Section 186.20) of Title~~  
10 ~~7 of Part 1 shall not be imposed on a person in addition to an~~  
11 ~~enhancement imposed pursuant to this subdivision, unless the~~  
12 ~~person personally used or personally discharged a firearm in the~~  
13 ~~commission of the offense.~~

14 (f) Only one additional term of imprisonment under this section  
15 shall be imposed per person for each crime. If more than one  
16 enhancement per person is found true under this section, the court  
17 shall impose upon that person the enhancement that provides the  
18 longest term of imprisonment. An enhancement involving a firearm  
19 specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5,  
20 or 12022.55 shall not be imposed on a person in addition to an  
21 enhancement imposed pursuant to this section. An enhancement  
22 for great bodily injury as defined in Section 12022.7, 12022.8, or  
23 12022.9 shall not be imposed on a person in addition to an  
24 enhancement imposed pursuant to subdivision (d).

25 (g) Notwithstanding any other provision of law, probation shall  
26 not be granted to, nor shall the execution or imposition of sentence  
27 be suspended for, any person found to come within the provisions  
28 of this section.

29 (h) Notwithstanding Section 1385 or any other provision of law,  
30 the court shall not strike an allegation under this section or a finding  
31 bringing a person within the provisions of this section.

32 (i) The total amount of credits awarded pursuant to Article 2.5  
33 (commencing with Section 2930) of Chapter 7 of Title 1 of Part  
34 3 or pursuant to Section 4019 or any other provision of law shall  
35 not exceed 15 percent of the total term of imprisonment imposed  
36 on a defendant upon whom a sentence is imposed pursuant to this  
37 section.

38 (j) For the penalties in this section to apply, the existence of any  
39 fact required under subdivision (b), (c), or (d) shall be alleged in  
40 the accusatory pleading and either admitted by the defendant in

1 open court or found to be true by the trier of fact. When an  
2 enhancement specified in this section has been admitted or found  
3 to be true, the court shall impose punishment for that enhancement  
4 pursuant to this section rather than imposing punishment authorized  
5 under any other provision of law, unless another enhancement  
6 provides for a greater penalty or a longer term of imprisonment.

7 (k) When a person is found to have used or discharged a firearm  
8 in the commission of an offense that includes an allegation pursuant  
9 to this section and the firearm is owned by that person, a  
10 coparticipant, or a coconspirator, the court shall order that the  
11 firearm be deemed a nuisance and disposed of in the manner  
12 provided in Section 12028.

13 (l) The enhancements specified in this section shall not apply  
14 to the lawful use or discharge of a firearm by a public officer, as  
15 provided in Section 196, or by any person in lawful self-defense,  
16 lawful defense of another, or lawful defense of property, as  
17 provided in Sections 197, 198, and 198.5.

18 SEC. 40. Section 12022.57 is added to the Penal Code, to read:

19 12022.57. (a) In any case in which a person violates Section  
20 12022.52 or commits a felony involving the use of a firearm and  
21 the offense occurs, in whole or in part, within a motor vehicle, or  
22 the firearm or the person and the firearm are found within a motor  
23 vehicle, the following conditions shall apply:

24 (1) If the subject motor vehicle is owned, driven, or controlled  
25 by the offender, in addition to any other applicable penalties, the  
26 Department of Motor Vehicles shall revoke the privilege of the  
27 offender to operate a motor vehicle pursuant to the procedures  
28 described in Section 13350 of the Vehicle Code.

29 (2) In the event that the offender is incarcerated or subject to  
30 custodial treatment or house arrest as a consequence of the  
31 underlying offense, the revocation of the privilege to operate a  
32 motor vehicle described in paragraph (1) shall be tolled until his  
33 or her release from custody.

34 (3) If the subject vehicle is registered to the offender, or other  
35 principal to the offense, it may be impounded for up to 60 days.

36 (b) The registered and legal owner of a vehicle that is removed  
37 and seized under subdivision (a), or their agents, shall be provided  
38 the opportunity for a storage hearing to determine the validity of,  
39 or to consider any mitigating circumstances attendant to the storage,  
40 in accordance with Section 22852 of the Vehicle Code.

1 SEC. 41. Section 14027 of the Penal Code is amended to read:  
2 14027. The Attorney General shall issue appropriate guidelines  
3 and may adopt regulations to implement this title. These guidelines  
4 shall include:

5 (a) A process whereby state and local agencies shall apply for  
6 reimbursement of the costs of providing witness protection  
7 services.

8 (b) ~~A 25-percent~~ *An appropriate level for the match* that shall  
9 ~~be required~~ *made by* local agencies. The Attorney General may  
10 also establish a process through which to waive the required local  
11 match when appropriate.

12 SEC. 42. Section 14175 of the Penal Code is repealed.

13 ~~14175. This title shall become inoperative on July 1, 2009, and~~  
14 ~~is repealed as of January 1, 2010, unless a later enacted statute,~~  
15 ~~which is enacted before January 1, 2010, deletes or extends that~~  
16 ~~date.~~

17 SEC. 43. Section 14183 of the Penal Code is repealed.

18 ~~14183. This title shall become inoperative on July 1, 2010, and~~  
19 ~~is repealed as of January 1, 2011, unless a later enacted statute that~~  
20 ~~is enacted before January 1, 2011, deletes or extends those dates.~~

21 SEC. 44. Section 14260 is added to the Penal Code, to read:

22 14260. (a) There is hereby established the Office of Public  
23 Safety Education and Information.

24 (b) The primary objectives of the office are to deter crime,  
25 support crime victims, encourage public cooperation with law  
26 enforcement, and administer grant programs that pursue these  
27 goals. These objectives shall be met, in part, through public service  
28 announcements disseminated by the most effective means,  
29 including television, radio, the Internet, and through the office's  
30 own Web site.

31 (c) Public disclosures shall include, but not be limited to,  
32 information regarding the following themes and state laws: "Used  
33 a Gun and You're Done," "Three Strikes," and "Jessica's Law."  
34 In addition, disclosures will incorporate comparative crime rates  
35 by specific offenses, including homicide, rape, robbery, burglary,  
36 and vehicle theft; incarceration rates; and prison demographics  
37 that explain, by offense, the makeup of inmate population.  
38 Comparative information regarding crime and criminal justice  
39 resources may include year-to-year and state-to-state comparisons.  
40 Public disclosures shall also include the relative efficacy of

1 programs to deter, educate, and rehabilitate, including, but not  
2 limited to, the disclosure of recidivism rates and subsequent arrests  
3 and convictions.

4 (d) The office shall maintain a publicly accessible Web site that  
5 shall include at least three discrete features:

6 (1) A public safety information page that shall include general  
7 information regarding the criminal justice system, current crime  
8 activity, safety advice, statistics, changes in the law, and links to  
9 related Web sites, including those of the Department of Justice  
10 and the Federal Bureau of Investigation.

11 (2) A crime victim information and support page linking state  
12 and federal programs that assist victims through the criminal justice  
13 process and provide services and reimbursement, including medical  
14 expenses, rape counseling, lost wages, and victim-paid rewards.

15 (3) A statewide neighborhood watch page, known as “Cal  
16 Watch,” providing informational support for, and the ability to  
17 link with, local neighborhood watch programs and assisting  
18 communities, sheriffs, and police departments wishing to create  
19 new neighborhood watch programs.

20 (e) The Governor shall appoint an executive officer and staff,  
21 as is reasonably necessary, to perform the work of the office.

22 (f) The office shall work with state, local, and federal agencies  
23 to maximize public safety resources, secure matching funds,  
24 eliminate duplicative efforts, and help craft better public safety  
25 policies and practices.

26 (g) The sum of twelve million five hundred thousand dollars  
27 (\$12,500,000) is hereby appropriated from the General Fund to  
28 the Office of Public Safety Education and Information for the  
29 2009–10 fiscal year and annually thereafter, adjusted for cost of  
30 living changes pursuant to the California Consumer Price Index,  
31 for the purpose of augmenting resources of district attorneys and  
32 law enforcement agencies employed to assist victims or comply  
33 with victim notification requirements under the California  
34 Constitution or consistent statutory measures.

35 (1) Twenty percent of the amount annually appropriated shall  
36 be distributed on a pro rata basis to participating county sheriffs’  
37 departments that maintain the Victim Information and Notification  
38 Everyday (VINE) program.

39 (2) Eighty percent of the amount annually appropriated shall  
40 support grants awarded to county district attorneys, sheriffs, and

1 police departments in order to disseminate victim rights information  
2 and to assist victims of crime in gaining access to protective  
3 services, counseling, and loss reimbursement. Specific program  
4 and grant application requirements shall be promulgated by the  
5 office no later than March 30, 2009, and may be amended  
6 periodically. Applicant agencies may apply no later than June 15th  
7 preceding the fiscal year during which grant funds are sought.

8 SEC. 45. Section 10851 of the Vehicle Code is amended to  
9 read:

10 10851. (a) Any person who drives or takes a vehicle not his  
11 or her own, without the consent of the owner thereof, and with  
12 intent either to permanently or temporarily deprive the owner  
13 thereof of his or her title to or possession of the vehicle, whether  
14 with or without intent to steal the vehicle, or any person who is a  
15 party or an accessory to or an accomplice in the driving or  
16 unauthorized taking or stealing, is guilty of a public offense and,  
17 upon conviction thereof, shall be punished by imprisonment in a  
18 county jail for not more than one year or in the state prison or by  
19 a fine of not more than five thousand dollars (\$5,000), or by both  
20 the fine and imprisonment.

21 (b) If the vehicle is (1) an ambulance, as defined in subdivision  
22 (a) of Section 165, (2) a distinctively marked vehicle of a law  
23 enforcement agency or fire department, ~~taken while the ambulance~~  
24 ~~or vehicle is on an emergency call and this fact is known to the~~  
25 ~~person driving or taking, or any person who is party or an accessory~~  
26 ~~to or an accomplice in the driving or unauthorized taking or~~  
27 ~~stealing,~~ or (3) a vehicle which has been modified for the use of a  
28 disabled veteran or any other disabled person and which displays  
29 a distinguishing license plate or placard issued pursuant to Section  
30 22511.5 or 22511.9 and this fact is known or should reasonably  
31 have been known to the person driving or taking, or any person  
32 who is party or an accessory in the driving or unauthorized taking  
33 or stealing, the offense is a felony punishable by imprisonment in  
34 the state prison for two, three, or four years or by a fine of not  
35 more than ten thousand dollars (\$10,000), or by both the fine and  
36 imprisonment.

37 (c) In any prosecution for a violation of subdivision (a) or (b),  
38 the consent of the owner of a vehicle to its taking or driving shall  
39 not in any case be presumed or implied because of the owner's



1 consent on a previous occasion to the taking or driving of the  
2 vehicle by the same or a different person.

3 (d) The existence of any fact which makes subdivision (b)  
4 applicable shall be alleged in the accusatory pleading, and either  
5 admitted by the defendant in open court, or found to be true by the  
6 ~~jury trying the issue of guilt or by the court where guilt is~~  
7 ~~established by plea of guilty or nolo contendere or by trial by the~~  
8 ~~court sitting without a jury trier of fact.~~

9 (e) Any person who has been convicted of one or more previous  
10 felony violations of this section, or felony grand theft of a vehicle  
11 in violation of subdivision (d) of Section 487 of the Penal Code,  
12 former subdivision (3) of Section 487 of the Penal Code, as that  
13 section read prior to being amended by Section 4 of Chapter 1125  
14 of the Statutes of 1993, or Section 487h of the Penal Code, is  
15 punishable as set forth in Section 666.5 of the Penal Code. The  
16 existence of any fact that would bring a person under *subdivision*  
17 *(f), (g), (h), (i), or (j) of this section, or Section 666.5 of the Penal*  
18 *Code, or any combination of those provisions,* shall be alleged in  
19 ~~the information or indictment~~ *accusatory pleading* and either  
20 admitted by the defendant in open court, or found to be true by the  
21 ~~jury trying the issue of guilt or by the court where guilt is~~  
22 ~~established by plea of guilty or nolo contendere, or by trial by the~~  
23 ~~court sitting without a jury trier of fact.~~

24 ~~(f) This section shall become operative on January 1, 1997.~~

25 (f) *A person who violates subdivision (a) as a principal or*  
26 *accessory to the taking of a vehicle in exchange for consideration*  
27 *or for the purpose of sale or transport of the vehicle or its*  
28 *components, in addition to other penalties prescribed by law, is*  
29 *subject to an additional one-year imprisonment in the state prison.*

30 (g) *A person who violates subdivision (a) as a principal or*  
31 *accessory to the taking of a vehicle that, prior to its recovery, is*  
32 *used in the commission of an offense that is a felony, in addition*  
33 *to other penalties prescribed by law, is subject to an additional*  
34 *one-year imprisonment in the state prison.*

35 (h) *A person who violates subdivision (a) as a principal or*  
36 *accessory to the taking of a vehicle and with the intent to use the*  
37 *vehicle in the commission of a felony, in addition to other penalties*  
38 *prescribed by law, is subject to an additional one year in the state*  
39 *prison.*

1     (i) A person who commits a felony violation of subdivision (a)  
2     as a principal or accessory to the taking of a vehicle that, prior to  
3     its recovery, is the subject of a pursuit in violation of Section  
4     2800.1, 2800.2, 2800.3, or 2800.4, in addition to other penalties  
5     prescribed by law, is subject to an additional one-year  
6     imprisonment in the state prison.

7     (j) A person who violates subdivision (a) as a principal or  
8     accessory to the taking of a vehicle that, prior to its recovery, is  
9     involved in a collision, in addition to other penalties prescribed  
10    by law, is subject to an additional one-year imprisonment in the  
11    state prison and an additional and consecutive one-year  
12    imprisonment in the state prison for each person, other than an  
13    accessory, who suffers personal injury as a proximate cause of  
14    that collision.

15    SEC. 46. Section 707.005 is added to the Welfare and  
16    Institutions Code, to read:

17    707.005. For purposes of subdivision (b) of Section 707, with  
18    regard to a minor, in any case in which the minor is alleged to be  
19    a person described in Section 602, when he or she was 14 years  
20    of age or older, by reason of a felony violation of Section 186.22  
21    of the Penal Code, the minor shall be presumed not to be a fit and  
22    proper subject to be dealt with under the juvenile court law unless  
23    the juvenile court concludes, based upon the evidence, that the  
24    minor would be amenable to the care, treatment, and training  
25    program available through the facilities of the juvenile court,  
26    applying the criteria and subject to the procedures described in  
27    subdivision (b) of Section 707. If the minor is dealt with under the  
28    juvenile court law, he or she is eligible for commitment to the  
29    Department of Corrections and Rehabilitation's Division of  
30    Juvenile Facilities, notwithstanding Sections 731 and 731.1.

31    SEC. 47. Section 749.22 of the Welfare and Institutions Code  
32    is amended to read:

33    749.22. To be eligible for this grant, each county shall be  
34    required to establish a multiagency juvenile justice coordinating  
35    council that shall develop and implement a continuum of  
36    county-based responses to juvenile crime. The coordinating  
37    councils shall, ~~at a minimum,~~ include the chief probation officer,  
38    as chair, and one representative each from the district attorney's  
39    office, the public defender's office, the sheriff's department, the  
40    board of supervisors, the department of social services, the

1 department of mental health, ~~a community-based drug and alcohol~~  
2 ~~program~~, a city police department, the county office of education  
3 or a school district, ~~and an at-large community representative~~. In  
4 order to carry out its duties pursuant to this section, a coordinating  
5 council shall also include representatives from nonprofit  
6 ~~community-based organizations providing services to minors~~. The  
7 ~~board of supervisors shall be informed of community-based~~  
8 ~~organizations participating on a coordinating council~~. The  
9 coordinating councils shall develop a comprehensive, multiagency  
10 plan that identifies the resources and strategies for providing an  
11 effective continuum of responses for the prevention, intervention,  
12 supervision, treatment, and incarceration of male and female  
13 juvenile offenders, including strategies to develop and implement  
14 locally based or regionally based out-of-home placement options  
15 for youths who are persons described in Section 602. ~~Counties~~  
16 ~~may utilize community punishment plans developed pursuant to~~  
17 ~~grants awarded from funds included in the 1995 Budget Act to the~~  
18 ~~extent the plans address juvenile crime and the juvenile justice~~  
19 ~~system or local action plans previously developed for this program~~.  
20 The plan shall include, but not be limited to, the following  
21 components:

22 (a) An assessment of existing law enforcement, probation,  
23 education, mental health, health, social services, drug and alcohol  
24 and youth services resources which specifically target at-risk  
25 juveniles, juvenile offenders, and their families.

26 (b) An identification and prioritization of the neighborhoods,  
27 schools, and other areas in the community that face a significant  
28 public safety risk from juvenile crime, such as gang activity,  
29 ~~daylight burglary, late-night robbery, vandalism, truancy, controlled~~  
30 ~~substance sales, firearm-related violence, and juvenile alcohol and~~  
31 ~~drug~~ use within the council's jurisdiction.

32 (c) A local action plan (LAP) for improving and marshaling the  
33 resources set forth in subdivision (a) to reduce the incidence of  
34 juvenile crime and delinquency in the areas targeted pursuant to  
35 subdivision (b) and the greater community. The councils shall  
36 prepare their plans to maximize the provision of collaborative and  
37 integrated services of all the resources set forth in subdivision (a),  
38 and shall provide specified strategies for all elements of response,  
39 including prevention, intervention, suppression, and incapacitation,  
40 to provide a continuum for addressing the identified male and

1 female juvenile crime problem, and strategies to develop and  
2 implement locally based or regionally based out-of-home  
3 placement options for youths who are persons described in Section  
4 602.

5 (d) Develop information and intelligence-sharing systems to  
6 ensure that county actions are fully coordinated, and to provide  
7 data for measuring the success of the grantee in achieving its goals.  
8 The plan shall develop goals related to the outcome measures that  
9 shall be used to determine the effectiveness of the program.

10 (e) Identify outcome measures which shall include, but not be  
11 limited to, the following:

12 (1) The rate of juvenile arrests *in relation to the crime rate*.

13 (2) The rate of successful completion of probation.

14 (3) The rate of successful completion of restitution and  
15 court-ordered community service responsibilities.

16 (f) *No person employed by, or representing the interests of, any*  
17 *private entity, including a charitable nonprofit organization, which*  
18 *has received or may receive grant funding for providing services*  
19 *for juvenile or adult offenders or at-risk populations may serve on*  
20 *a coordinating council.*

21 SEC. 48. Section 1951 of the Welfare and Institutions Code is  
22 amended to read:

23 1951. (a) There is hereby established the Youthful Offender  
24 Block Grant Fund.

25 (b) Allocations from the Youthful Offender Block Grant Fund  
26 shall be used to enhance the capacity of county probation, ~~mental~~  
27 ~~health, drug and alcohol, and other county~~ departments to provide  
28 *or secure* appropriate rehabilitative and supervision services to  
29 youthful offenders subject to Sections 731.1, 733, 1766, and  
30 1767.35. ~~Counties, in expending the Youthful Offender Block~~  
31 ~~Grant allocation, shall provide all necessary services related to the~~  
32 ~~custody and parole of the offenders.~~

33 (c) The county of commitment is relieved of obligation for any  
34 payment to the state pursuant to Section 912, 912.1, or 912.5 for  
35 each offender who is not committed to the custody of the state  
36 solely pursuant to subdivision (c) of Section 733, and for each  
37 offender who is supervised by the county of commitment pursuant  
38 to subdivision (b) of Section 1766 or subdivision (b) of Section  
39 1767.35. *Savings from this provision shall be added to the Youthful*

1 *Offender Block Grant Fund and directed to the probation*  
2 *department as specified in subdivision (b).*

3 *(d) There is hereby continuously appropriated from the General*  
4 *Fund ninety-two million five hundred thousand dollars*  
5 *(\$92,500,000) or the amount in Section 1953, 1954, or 1955,*  
6 *whichever is greater for the 2009–10 fiscal year and each year*  
7 *thereafter, adjusted for cost-of-living changes annually pursuant*  
8 *to the California Consumer Price Index. This amount shall be*  
9 *distributed in accordance with the formulation in Section 1955 to*  
10 *assist counties in bearing the expense of housing juvenile offenders.*

11 SEC. 49. The following existing programs shall be funded at  
12 or above the level of funding they received in the Budget Act of  
13 2007:

14 (a) Jail Efficiency Fund as established under Item  
15 9210-105-0001.

16 (b) California Multi-Jurisdictional Methamphetamine  
17 Enforcement Team (CAL-MMET) program under Item  
18 0690-101-0001.

19 (c) Central Valley Rural Crime Prevention Program established  
20 in Chapter 497 of the Statutes of 2005.

21 (d) Central Cost Rural Crime Prevention Program established  
22 in Chapter 18 of the Statutes of 2003.

23 (e) Juvenile Probation Camp Funding under Item  
24 5225-101-0001, Schedule 1.

25 SEC. 50. It is the intent of the Legislature in enacting this  
26 measure to strengthen and improve the laws that punish and control  
27 perpetrators of gang offenses, firearm offenses, and other specified  
28 crimes. It is also the intent of the Legislature that if any provision  
29 in this act conflicts with any other provision of law that provides  
30 for a greater penalty or longer period of imprisonment the latter  
31 provision shall apply.

32 SEC. 51. (a) The amendments to paragraph (4) of subdivision  
33 (b) of Section 186.22 of the Penal Code, to delete the alternative  
34 minimum term computations and to include enhancements in the  
35 computation of the term, are intended to improve that statute by  
36 simplifying the computation procedure for the minimum term of  
37 the life sentence. The amendments repealing the alternative  
38 minimum term computations in that statute shall not be given any  
39 retroactive application, and shall not be construed to benefit any

1 person who committed a crime or received a punishment while  
2 those provisions were in effect.

3 (b) The amendments to subparagraph (B) of paragraph (4) of  
4 subdivision (b) of Section 186.22, to delete Section 12022.55 and  
5 add Section 12034, are intended to increase the punishment for  
6 gang offenses involving shooting from a vehicle. These  
7 amendments shall not be given any retroactive application, and  
8 shall not be construed to benefit any person who committed a crime  
9 or received a punishment while the former version of this provision  
10 was in effect.

11 (c) The amendment to subdivision (g) of Section 186.22, to  
12 delete the provision regarding the court striking the punishment  
13 for an enhancement, is not intended to affect the court's authority  
14 under Section 1385.

15 SEC. 52. It is the intent of the Legislature that the adoption of  
16 the Safe Neighborhoods Act shall elevate public safety as a  
17 statewide priority and limit volatility in the funding of law  
18 enforcement and complementary programs of crime deterrence  
19 and offender rehabilitation. All too often, short-term economic  
20 problems and a multitude of competing interests cause promising  
21 programs of deterrence and law enforcement to come to an end or  
22 force public safety agencies to work without adequate personnel  
23 or equipment. Under the best of circumstances, California police,  
24 sheriffs, and correctional officers are faced with much higher  
25 caseloads than their counterparts in other parts of the country.  
26 Providing our public safety agencies authorization to enforce the  
27 law and deter crime is meaningless if these agencies are not  
28 provided resources commensurate with their authority. Authorizing  
29 additional resources to combat methamphetamine interdiction will  
30 prove illusory if the recipient agencies simultaneously lose funding  
31 to combat street gangs and firearm violations. Accordingly, this  
32 act is designed to protect both new and existing programs and  
33 resources and to subject all of the enumerated programs to greater  
34 public scrutiny. The objective is to establish a higher commitment  
35 to both crime deterrence and enforcement and to sustain that level  
36 of commitment.

37 SEC. 53. No provision within this act shall be construed to  
38 alter the calculation of the minimum state obligations under Section  
39 8 of Article XVI of the California Constitution, nor diminish the  
40 actual state and local support for elementary and secondary schools

1 and the California Community Colleges required by law except  
2 as authorized by the Constitution.

3 SEC. 54. No provision of this act shall be construed to change  
4 the eligibility of any person to participate in a voter approved drug  
5 treatment program.

6 SEC. 55. The funding authorized or made permanent under  
7 this act shall supplement and enhance the resources and capacity  
8 of public safety agencies and programs throughout California and  
9 accordingly the state, or any city, county, city and county, or other  
10 political subdivision is prohibited from reducing the level of  
11 funding received by any recipient agency or program below that  
12 amount received during the higher of the 2007–08 or the 2008–09  
13 fiscal year so as to supplant or offset in whole or in part the  
14 enhanced level of funding authorized by this act.

15 SEC. 56. Nothing in this act shall preclude the Legislature from  
16 increasing or authorizing public safety appropriations greater than,  
17 or in addition to, those approved under this act.

18 SEC. 57. Notwithstanding Section 13340 of the Government  
19 Code, any moneys allocated and appropriated under this act that  
20 are not encumbered or expended within any applicable period  
21 prescribed by law shall, together with the accrued interest on the  
22 amount, revert to and remain in the same account for encumbrance  
23 and expenditure for the next fiscal period. If any recipient program  
24 ceases to require funding authorized under this act or if the funds  
25 remain undistributed to eligible agencies for a period of two fiscal  
26 years after authorization, those funds shall revert to the General  
27 Fund.

28 SEC. 58. The provisions of this act are severable. If any  
29 provision of this act or its application is held invalid, that invalidity  
30 shall not affect other provisions or applications that can be given  
31 effect without the invalid provision or application.

32 SEC. 59. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution for certain  
34 costs that may be incurred by a local agency or school district  
35 because, in that regard, this act creates a new crime or infraction,  
36 eliminates a crime or infraction, or changes the penalty for a crime  
37 or infraction, within the meaning of Section 17556 of the  
38 Government Code, or changes the definition of a crime within the  
39 meaning of Section 6 of Article XIII B of the California  
40 Constitution.

1     However, if the Commission on State Mandates determines that  
2     this act contains other costs mandated by the state, reimbursement  
3     to local agencies and school districts for those costs shall be made  
4     pursuant to Part 7 (commencing with Section 17500) of Division  
5     4 of Title 2 of the Government Code.

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